# MANUALE;
## OR,
# ANTALECTA.

Being a compendious Collection out of such as have treated of the Office of Justices of the Peace, but principally out of Mr *Lambert*, Mr *Crompton*, & Mr *Dalton*.

AND

Serving for a REPERTORY;

Formerly styled

# The Complete Justice.

But now corrected & purged from a multitude of Errors which were in the former Impressions of the same; With diverse and sundry new Additions.

*Quæ prius concedebantur per obliquum, conceduntur nunc de directo.*

*LONDON*,
Printed by MILES FLESHER and ROBERT YOUNG. 1641.
*Cum Privilegio.*

UMI

# An Avertisement to the Reader.

THis Manuall *formerly* (*but vaine-gloriously, to make it more saleable*) *styled* The Complete Justice, *was originally collected for private use. But being lent to a friend, some Copies thereof were taken, and comming through the hands of some careless and ignorant transcribers, through their haste and negligence* (*as it seemeth*) *sometimes whole sentences, sometimes whole lines were omitted, and many grosse faults made, and by the often transcribing multiplyed, and afterwards surreptitiously imprinted. For the sentence in the Title page or Frontispice of those bookes, doe intimate and import so much, saying,* Multa conceduntur per obliquum, quæ non conceduntur de directo.

*And so being imprinted by a most vitious Copy.* An. 1637. *and afterward examined by the Originall, upon the first light perusall thereof, there were noted*

*downe* 628 errata, *and many more upon a review.*

*This being made known to the Printers, some one was got to reviſe that* Edition. *But as it was an* Herculean *labor to clenſe* Augæa's *ſtable: ſo, it ſeemeth, it was to purge that firſt* Edition. *For in the ſecond Impreſſion,* anno 1638. *divers were left untouched, and new failers made: In ſo much, that the ſame being examined againe by the Originall, there were no fewer then* 616 errata *noted upon the firſt review: and many more afterwards diſcovered. A few of the laſt, for a taſte; are here under expreſſed, and may ſerve for correction of thoſe bookes.*

## Statutes miſrecited.

| *Pag* | *Linea* | *Errata* | *Correctiones.* |
|---|---|---|---|
| 23 | 8 | 17. Eliz. | 27. Eliz. |
| 33 | 23 | 1. Ed. 6. 24. | 2. Ed. 6. 24. |
| 40 | 30 | 18. Eliz. 4. | 8. Eliz. 4. |
| 64 | 14 | 33. H. 8. 22. | 12. Ed. 4. c. 9. |
| 68 | 1 | 27. H. 8. c. 5. | 27. H. 8. c. 24. |
| 171 | 15 | 14. Eliz. 5. | 1. Jac. 25. |
| 174 | 23 | 13. Eliz. 28. | 13. Eliz. 2. |
| 180 | 10 | 32. H. 8. 5. | 22. H. 8. c. 5. |
| ibid | 28 | 23. Ed. 3. | 25. Ed. 3. |
| 220 | 22 | 3. Jac. 4. | 1. Jac. c. 4. |
| 225 | 29 | 42. Eliz. 39. | 42. Ed. 3. c. 9. |
| 261 | 9 | 1. Ed. 6. 2. | 1. Ed. 3. c. 17. |

Meer

# To The Reader.

## Meer Contrarieties and Diversities.

| Pa. | li. | Errata | Correctiones. |
|---|---|---|---|
| 126 | 18 | impriſon for a yeare or more | impriſon for a yeare or leſſe |
| 148 | 11 | J. of P. may binde | J. of P. may bayle |
| 195 | 13 | Recuſant excommunicated | Recuſant not excommunicated |
| 200 | 18 | Where the Indictment is ſufficient | Where the Indictment is inſufficient. |
| 206 | 9 | It is good to raiſe the power of the County | It is not good to raiſe the power of the county. |
| 253 | 23 | Toll-gatherer for himſelfe | Toll-gatherer for horſes. |
| 12 | 14 | Maſters | Miſtreſſe |
| | 20 | Maſters | Miſtreſſe |
| 39 | 9 | 40 ſhillings | 100. ſhillings |

## Abſurdities.

| Pag. | lin. | Errata | Correctiones. |
|---|---|---|---|
| 51 | 11 | may binde threatners | may bind Cheators |
| 76 | 4 | aſſignment of a fine | aſſeſſement of a fine |
| 90 | 9 | Proclamation for the peace | proclamation for ſilence |
| 97 | 27 | Statute for the peace | Statute for the poore |
| 110 | 3 | without the Kings conſent | without the owners conſent |
| 167 | pe | tryers of infected perſons | buryers of infected perſons |
| 228 | 13 | without his Majeſties licence | without his maſters licence |
| 274 | 26 | one penny for a pound and an halfe | a penny for an hundred |
| | 27 | an halfe penny for alone pound | an halfe penny for halfe an hundred |
| 276 | 29 | ſelling barke meete to be barked | ſelling Oakes meete to be barked. |

*And, whereas there cannot bee a greater fault in such a booke, then to lead Justices of Peace into an error, and for a single Justice of Peace to undertake that alone, wherein the assistance of two or more are required: Note that the power of moe Justices then one is in above 60 places ascribed to one alone.*

*And further, the Reader is to be advertised, That the Quotations of* Lambert, Crompton *and* Dalton *in this Impression are referred to* Lamb. 1619. Crompton *to* 1606. *&* Dalton *to the Editions* 1630. *or* 1635. *either of which will serve indifferently.*

*But withall the Reader is to be admonished that neither of those two distinct and severall impressions of* Dalton *is truly paged.*

*For immediately after pag.* 136. *both of them returne backe againe to* 133. 134. 135. 136. *and so continue an error of foure pages to pag.* 276. *And from pag.* 276. *the Edition of* 1630. *repeateth againe* 273. 274. 275. 276. *And the Edition of* 1635. *repeateth* 277. 278. 279. 280. *so that the first error varyeth foure pages, and the latter error in either of them differeth eight pages from the*

*true Notation of pages, and doe continue that error throughout to the end.*

*Therefore the falsity of those Pages must be rectified, before you can make due use of this* Manuall, *the same being reduced and quoted as the true Notation should be.*

*Note further that sentences and lines marked in the margent with* Comma's *are such as were not in the former Impressions: but some of them were omitted by the haste of the transcribers, and some collected after the lending of the Originall, and before the first printing of it.*

The

# The Table.


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# Faults in the Printing.

| Pag. | Linea | Errata. | Corrections. |
|---|---|---|---|
| 4 | 25 | Dal. 28 3. | *deleatur* |
| 5 | 11 | *the towne* | *the county, towne* |
| 6 | 1 | *waterman, spinster* | *waterman, labourer, &c* |
| 15 | 3 | Lam. 99. 106. 107. | Lamb. 112. |
| 18 | 13 | *a Justice* | *the Justices* |
| 28 | 8 | 6. | *b.* |
| | 19 | *Indictments* | *Indicted* |
| 40 | 16 | 255. | 259 |
| 43 | 8 | 111. | 11 |
| 44 | 8 | 1. Ed. 6. | 2. Ed. 6. |
| 45 | 22 | 408. | 416 |
| | 25 | 409. 197. | 417. 167 |
| 47 | 21 | *before the Conviction* | *before whom the [illegible]* |
| 51 | 17 | *but* Jac. | *but* 1. Jac. |
| 80 | 27 | *cap.* 13. | *cap.* 3. |
| 85 | 11 | 300. | 308. |
| 101 | 16 | *which is pounds* | *which is 3. pounds* |
| 127 | 7 | 5 | *deleatur* |
| 234 | 19 | *pardon except* | *pardon of course except* |
| 244 | 8 | *Justice* | *Justices* |
| 247 | 18 | *lawfull pursuit* | *lawfull pursuit to arraigne a felon.* |
| 255 | 31 | *nu.* 7. | *nu.* 1. |
| 257 | 2 | *nu.* 39. | *nu.* 30. |
| 259 | 6 | *a Justice* | *Justices* |
| 272 | 24 | 550. | 50 |
| 279 | 5 | *binde to the peace* | *binde to the peace or to his good behaviour* |
| 291 | 11. 16 | 319 | 315 |
| 292 | 7 | *4. shillings 4. pence* | 3. *shill.* 4. *pence* |
| 300 | 18 | 161 | *ibid.* |
| 307 | 22 | 3. Jac. | 7. Jac. |
| 221 | 28 | *Justice* | *Justices* |
| 222 | 23 | *Justice* | *Justices* |
| 236 | 16 | E. 3. *b.* | E. 3. *c.* 6. |
| 244 | 8 | *Justices of Cro.* | *Justices of P. Cro.* |
| 247 | 23 | *pursued* | *sued* |
| 252 | ult. | *require* | *inquire* |
| 290 | 3 | *as* | *is* |
| 298 | 8 | 2. H. 7. | 7. H. 7. |
| 308 | 28 | *libell* | *labell* |

# Abjuration.

THe abjuration of a seditious Sectary ought to be made in open quarter Sessions of the Peace, & there to be entred of Record in the Rols of the Sessions by the Clerk of the Peace, 35. *Eliz. cap.* 1. & 2. *Lamb.* 615.

Abjuration of a seditious Sectary made in open Qu. Sessions must be certified to the Justices of Assise at the next Assises, 35. *El. c.* 1. *Lam.* 590.

Justices of Peace cannot arraigne a man upon his abjuration for felonie, *Lam.* 551.

*Vide plus* Recusants.

# Absolve, *vide* Treason.

# Accessary and Principall.

## *Who shall be an accessary before the fact.*

1. Abetter, Procurer, or Consenter to a felony, *Dal.* 292, 293. *Cro.* 41. a. *nu.* 1. *Lam.* 286, 287, 288. *Stamf.* 44. a.

2. Commander of an evill act is accessary to the felonie proceeding thereof: as if death proceed of beating or robbing, *Lamb.* 286. *Dal.* 293. *Cro.* 43. a. *nu.* 34.

3. Commander of one felony, whereby another ensueth, is accessary to the second: as, *A.* commandeth *B.* to fire the house of *C.* and thereby many are fired, *Lam.* 286, 287. *Cro.* 43. b. *m.* 36.

4. Commander of a felony, though it be executed in another fashion, time, and place, or manner then was commanded, *Lam.* 286, 287. *Cro.* 42. a. *m.* 14. *Dal.* 293.

"5. When a Statute ordaineth an act to be "treason or felony, which was not so at the "common law, & saith not, that the abetters, "aiders, comforters, or consenters shalbe fe- "lons, yet it shalbe felony in them, *Dal.* 292, "297. *Lam.* 285.

## Who not.

The felony commanded is executed on another person, the commander is not accessary, *Lam.* 287, 288.

The commanded performing more than was commanded, committeth felony, the commander is not accessary, *Lam.* 287.

The commander of one felony to bee done to a man, is not accessary to another kind of felony committed against the said party: as, one counselled to poyson *A.* giveth it to *A.* and *B.* the counseller is not accessary to the murder of *B.* *Lam.* 287, 288.

"Commander or counseller to a fact coun- "termandeth it before it be done, *Lamb.* 289. "*Dal.* 293. *Cro.* 42. a. *m.* 16.

The knower of a felony without consenting, *Lamb.* 289. But such concealement is fineable. *Cro.* 41. b. *m.* 8. *Dal.* 294.

One

One not party nor privie who is present at a felony, and doth not disturb it, nor pursue the felon, is fineable, *Lam.* 289. *Dal.*

## *Accessary after the fact.*

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainder, *Crom.* 41. a. *nu.* 1. *Dal.* 294.

Receiver or comforter of a felon with an evill intent, *Lam.* 289. *Dal.* 294.

Arrester of a felon by huy and cry taketh the goods, and letteth him goe, *Lam.* 290.

One pursuing a felon for his owne goods, taketh monie of him not to give evidence against him, whereby he is freed, *Lam.* 290.

Receiver or comforter of an accessary, knowing thereof, *Lam.* 291. *Dal.* 297.

Receiver of ones brother, knowing him to be a felon, *Lam.* 291. *Dal.* 295.

Receiver of an approver or one attainted, or outlawed of felony, knowing thereof, *Lam.* 293.

To harbour a felon attainted in the same County, *Cro.* 43. a. *nu.* 31. *Dal.* 294.

But *Lamb.* 293. holdeth it reasonable that he first have knowledge of such a record.

Receiver of stollen goods, knowing them to be stollen, *Cro.* 41. b. *nu.* 3. many authorities remembred: but 42. a. *nu.* 17. he saith, that he must receive the felon also. *Vide Cro. &c. Vide Crom.* 42. b. *nu.* 23. & 43. b. *nu.* 37. *Dal.* 295.

## *Who not.*

A sutour by word or writing for the deliverance of a felon, knowing thereof, *Lamb.* 289, 290. *Dal.* 294.

Pursuer of a felon for his owne goods, taketh them againe, and letteth him goe, *Lamb.* 290. *Dal.* 296.

Reliever or receiver of one bailed for felonie, *Lam.* 290. *Cro.* 42. b. *nu.* 25. *Dal.* 294.

Buyer of stollen goods, knowing thereof, *Lamb.* 291. unlesse he receive the felon, *Crom.* 42. a. *nu.* 17. *Dal.* 295.

The wife receiving the husband, knowing him to be a felon, *Lam.* 291, 292. *Dal.* 295.

Receiver of the striker of the stroke, after the stroke, and before the death, *Lam.* 292.

After acquittall as principall, one may bee arraigned as accessary after the fact, but not before the fact, *Lamb.* 292, 557. *Crom.* 42. b. *nu.* 18.

One may be accessary to an accessary: as, if one feloniously receive or comfort an accessary, *Dal.* 297. *Lamb.* 291. *Cro.* 42. b. *nu.* 24.

## *Who shall be said a Principall.*

Those of the society of a felon, and present at the fact, though not actors, *Dal.* 283. *Stamf.* 40. a. *Cro.* 22. a. *nu* 10, 15. *Dal.* 291.

An abbetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statute, 3. *H.* 7. *cap.* 2. *Lam.* 285.

Accessary in one County to a felony done in another County, may bee indicted where he

he becommeth accessarie, 2. & 3. *Ed.6.ca.24. Dal.297.*

It is no good indictment against an accessary, to say, that he received the goods, without saying he received the felon, *Lamb.500. 291.*

## Acquittall, *Vide* Enditements.

## Additions.

In every indictment or presentment where outlawry lyeth, the estate of degree or mysterie, the towne, hamlet, or place where the indicted dwelleth, are to be added, *1.H.5.ca.5. Lam.488.*

### *What shall be a good addition of degree or estate.*

Duke, Marqueſſe, Earle, Vicount, Archbishop, Bishop, Baron, Knight, Serjeant at law, Esquire, Gentleman, Alderman, Widow, single Woman, Deane, Archdeacon, Parson, Doctor, Clerke, Parish-clerk, *Lam.488, 489, 490.*

### *What not.*

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertaine, as Farmer, Servant, Butler, Chamberlaine, *Lam.489. Cro.109.a.6.nu.8.*

### *What shall be a good addition of mysterie.*

Chopchurch, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Lighter-

man, Waterman, Spinster, *Lam.*489.

### *What not.*

That which is no myſterie nor degree, as Citizen; nor any unlawfull trade; as Extortioner, Maintainour, Vagabond, Heretick, Dicer, Carder, &c. *Lam.*489.

Addition of degree or myſterie muſt be as the party then is. But addition of the place may be ſuch whereof he was, *Lam.*489,490. *Additions Br.*41.

Addition of degree and myſterie muſt be knit to the proper perſon, *Lam.*489.

The Statute of the 1.*H.*5. *cap.*5. of additions, doth not extend to informations, *Lamb.* 510.

### *What ſhall be a good addition of place.*

Either of the Towne or Pariſh, if they be both of one name, *Lam.*490.

Of the Towne onely, where there be two Townes in one Pariſh, *Lam.*490.

Either of the Towne or Hamlet, if there be two Hamlets in one Towne, *Lam.*490.

Of the Town, if the perſon be of a place knowne within the Towne, *Lam.ibid.*

Addition muſt comprehend the County, Towne, or Hamlet, whereof the party is or was, *Lam.ibid.*

### *What not.*

Of the place where he is Parſon, without naming the place of his aboad, *Lam.ibid.*

Affray

An affray may be without word or blow: as, to be armed with armour or weapon not usually borne, *Lam.* 126.

"It is no affray properly unlesse there bee "some weapon drawne, or stroke given, or "offered to be given, or some such attempt, "*Dal.* 34.

Constable or other Officer may lay no hands on any intending to make an affray, till weapon drawne, or offer of blow, *Dal.* 34. *Lam.* 132. *Cro.* 146. 2.

"An affray is in a house, and the doores "are shut, the Constable may breake into "the house to see the peace kept, *Dal.* 34.

"If the Affrayers flie into another house, "into a Franchise or other County, the "Constable upon fresh suit may pursue "them, but cannot meddle out of the Coun-"tie but as a private man, *Dal.* 34.

Affrayer may be commanded by the Constable or other Officer to avoid upon pain of imprisonment: And if the affray be great, they may make proclamation, and command the parties to prison for a small time, whom hee must deliver without fine, *Lamb.* 132. *Dal.* 34.

"After an affray, a Justice of Peace may "commit the offenders till they find sureties "(if the affray were in his presence) if out "of his presence, he may send his Warrant, "and commit them till they doe find sure-"ties. *Vide* Surety of the peace.

"If a man be dangerously hurt, and the "wound mortall, although the Justice of

"Peace may baile the offender, yet it is the "safeſt way to commit him till there ap- "peare ſome hope of recovery, *Dal.*35.

"If an aſſault or affray bee made upon a "Juſtice or Conſtable, they may defend "themſelves. The Juſtice may cauſe them to "be arreſted, the Conſtable may commit "them to the Stockes, and after carry them "before a Juſtice of Peace, *Dal.*35. *Vide* "Peace.

"An affray is in a corporate Towne "(which hath Juſtices within it ſelf) while "the Seſſions be held there: the Juſtices of "Peace ſhall not meddle there; but it is o- "therwiſe at the Aſſiſes, *Cro.*146.b.

Every private man preſent at an affray, aſſault, or battery, may part them, ſtay them that come to the affray with weapon, ſtay the affrayers till the heat be over, and then deliver them to the Conſtable; but may not commit them, unleſſe one of the affrayers be in perill of death. And if he flie into a houſe, upon Huy and Crie breake open the houſe, and take him, *Dal.*33. *Lamb.*131. *Cro.* 146.a. *Vide plus* Conſtable.

## *Agnus Dei*, Croſſes, Beads, &c.

If any perſon, to whom any of theſe, or any other ſuperſtitious things from the See of Rome or authority thereof be offered, doe diſcloſe the name, dwelling, or place of reſort of ſuch offerer or deliverer, to any Juſtice of Peace of the ſame Shire, the ſame Juſtice muſt within fourteen daies next after declare the

the ſame to ſome one of the Privie Councell, on pain of Premunire, 13. *El. cap. 2. Dal.* 105. *Vide plus* Treaſon, Miſpriſion, & Premunire.

## Alehouſes.

Two Juſtices, one being of the Quorum, may licenſe one to keep a common Alehouſe, taking bond with good ſurety for good rule to bee kept in his houſe, 5. *Ed. 6. cap.* 25. "And an Alehouſe-keeper put downe by "two ſuch, cannot bee allowed by any other "two, but in open Seſſions, *Dal.* 29.

Twelve pence is given to the two Juſtices of Peace, for taking a recognizance of him that is allowed to keep a common Alehouſe, 5. *Ed. 6. ca.* 25. *Lam.* 370. Condition of a recognizance for an Alehouſe, *Lam.* 354.

He that keepeth an Alehouſe of his owne authority, without licenſe of two Juſtices, one being of the Quorum, or after prohibition of two ſuch Juſtices, may by two ſuch Juſtices bee committed to priſon for 3. daies without baile, and till he be bound with two ſureties to keep none after, *Dal.* 29. *Lam.* 354. "*Vide* Stat. 3. *Car.* 3. which alloweth ſelling "of beere or ale in Faires (though unlicenſed:) As alſo the puniſhment of perſons "unlicenſed.

Information of the offence and recognizance taken by two Juſtices, one being of the Quorum, of an Alehouſe kept againſt the Statute of 5. *Ed. 6. ca.* 25. and certified by them to the Seſſions, is a ſufficient conviction

without further tryall at the Seſſions: and they may aſſeſſe the fine of 20.ſhillings without making proceſſe againſt the offender, *Lam.*572.

Information made in Seſſions, that an Alehouſe-keeper hath done an act, whereby he hath forfeited his recognizance, they may award proceſſe againſt him, to ſhew why he ſhould not forfeit his recognizance. Quære what proceſſe, *Lam.*524, 529.

Enquiry whether Alehouſe-keepers have forfeited their recognizance, ought to be at the Quarter Seſſions, 5.*Ed.*6.25.

Fines impoſed by the Stat. of 5.*Ed.*6.*ca.*25. concerning Alehouſes cannot be altered by the Juſtices of Peace, 5.*Ed.*6.*c.*25. *Lam.*578.

Juſtices of Peace muſt certifie the recognizance taken for Alehouſes at the next Quarter Seſſions after they are taken, or loſe 5.Marks, 5.*Ed.*6.*ca.*25.

Any directly or indirectly ſelling Ale or Beere unto any Alehouſe-keeper not licenſed, more then for his neceſſary proviſion for his houſhold, ſhall loſe after the rate of 6.ſhillings 8.pence for every barrell. For the levie and diſpoſall of the penalty, ſee *Victuals*, 4.*Jac.*4.

Alehouſe-keeper or Inne-keeper ſuffering any tipling contrary to the 1.*Jac.ca.*9. 4.*Jac. cap.*5. 7.*Jac.cap.*10. 21.*Jac.cap.*7. forfeiteth 10.ſhillings, and every ſuch tipler 3.ſhillings 4.pen. for not ability of payment the Alehouſe-keepers, &c. to bee committed to the Gaol till the penalty be payed, which penalty

is

is to be payed within 6. daies, or the diſtreſſe to bee ſold, 1. *Jac. cap.* 9. the tipler to the Stockes for 4. houres, 4. *Jac. cap.* 5. *Dalt.* 28. 1. *Car.* 4.

Juſtice of Peace hath power in thoſe caſes to miniſter an oath to witneſſes, wherein oath of one witneſſe is ſufficient, 1. *Car. ca.* 4. 1. *Jac.* 9. 21. *Jac.* 7.

The Conſtables and Churchwardens neglecting to levie, or to certifie the cauſe thereof by 20. daies to the Juſtice that granted the diſtreſſe, do forfeit 40. ſhill. in default thereof to be ſent to the Gaole till paiment be made. 1. *Jac. ca.* 9. *Dal.* 28. *Cro.* 78. 2.

Alehouſe-keepers and Inne-keepers ought to lodge travellers. *Quere* how he is compellable, and ſee the opinion of Sir *James Ley* chiefe Juſtice at Lent Aſſiſes, 1622. *Dal.* 28.

"No Inne-holder, Alehouſe-keeper, or other Victualler ſhall bee compelled to ſell victualls to others, or to have lodging, except the partie firſt pay ready money, *Dal.* 28. *Cok. lib.* 9. *fol.* 87. b. *Brook. action ſur le caſe* 76.

"Selling of leſſe then a full Ale-quart of beſt Beere or Ale for 1. d. and of 2. quarts of ſmall for 1. d. upon oath of one witneſſe the penalty is 20. ſhill. 1. *Jac. cap.* 9. 4. *Jac. ca.* 5. 21. *Jac. ca.* 7. *Dal.* 26.

"Any tipling in any Inne, Alehouſe, or Victualling houſe, whereſoever his habitation be, forfeiteth 3. ſhillings 4. pen. 21. *Jac. ca.* 7. *Dal.* 28.

"A feme

"A feme covert keepeth an Alehouſe, and "ſelleth Ale, &c. without licenſe, contrary "to her husbands will, the husband is pu-"niſhable, *Dal.*30.

"The voluntary confeſſion before one Ju-"ſtice of Peace of any offender againſt the "Stat. of 1. *Jac.c.*9. or 4. *Jac.ca.*5. is ſufficient "to convince the party offending. And after "confeſſion, the oath of the party confeſſing "is proofe againſt any other offending at the "ſame time, *Dal.*26. 21. *Jac.c.*7.

"Alehouſe-keepers are diſabled to keep "Alehouſe for three yeers after,

1. If they ſuffer tipling, *Dal.*31.

2. If they ſell not a quart of the beſt, and 2. quarts of ſmall Beer or Ale for a peny, *Ibid.*

3. If they be convicted by Indictment at the Aſſiſes, Seſſions, or Leet, for being drunk, 4. *Jac.ca.*5. or before one Juſtice upon oath of one witneſſe, 21. *Jac.c.*7.

4. Continue drinking in another Alehouſe, 7. *Jac.*10. 4. *Jac.*5. *Dal.*32. *Vide plus* Victuallers confeſſion.

In all theſe caſes, if he be licenſed againe within three yeers, ſuch licence is void, and he to be puniſhed as victualling without licence: *Dal.*32.

If any unlicenſed Alehouſe-keepers bee convicted by the view of any Juſtice of the Peace, confeſſion of the offender, or oath of two witneſſes, he loſeth 20. ſhil. to the uſe of the poore of the Pariſh, to be levied by way of diſtreſſe by warrant from the Juſtice of Peace convicting, and within three daies to be ſold, 3. *Car.ca.*3.

Where

Where there is no ſufficient diſtreſſe or non-payment, within ſix daies after conviction, the offender is to bee openly whipped as the Juſtice of Peace ſhall limit, 3. *Car. cap.* 3.

The Officer refuſing or neglecting to execute the Juſtice his precept, is to be committed to the Gaole, untill hee doe or procure the offender to be whipped, or pay 40. ſhill. to the uſe of the poore of the ſaid Pariſh, 3. *Car. cap.* 3.

The ſecond offence is commitment to the houſe of Correction for a moneth, *Ibid.*

The third offence is to remain in the houſe of Correction till hee be delivered at the generall Seſſions, *Ibid.*

He that is puniſhed by the Act 3. *Car.* 3. not to be puniſhed by the Statute, 5. *Ed.* 6. *cap.* 25. *& è contr.*

## Aliàs dictus, *vide* Endictment.

## Alien and his triall, *vide* Triall.

## Allegeance, *vide* Supremacie.

## Amerciaments.

The owner of a beaſt, knowing it to bee harmfull, and not reſtraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King, *Lamb.* 239. *Cro.* 24. *nu.* 45. *Dal.* 238.

Offenders in gathering more amerciaments then are in their lawfull eſtreats, to be convicted by two Juſtices, one to bee of the Quorum

rum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffes, 11.*H.*7.*c.*15

Estreats of amerciaments must be by Indenture between the two Justices (appointed for oversight of Sheriffes bookes) and the Sheriffe or Under-Sheriffe under their seales, or else the Sheriffe to lose 40.shill. 11.*H.*7. *cap.*15.

No amerciament for default of appearance, when the Sessions are not summoned by precept, *Lam.*381. or when the summons is at one place, and kept at another, *Ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them, *Lam.*384.

Justices of Peace cannot amerce their fellow for absence from the Sessions; but a Justice of Assise may amerce a Justice of Peace for his absence from the Gaol-delivery, *Lam.*385.

Clerke of the Peace, Coronors, Sheriffes, Bailiffes of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions, *Lam.*395.

Amerciaments of Jurors for concealment, *Vide* Jurours, *Lam.*400,401. 3.*H.*7.*cap.*1.

## Appearance.

Recognizance taken for the Peace against all the Kings people, and to appeare at the next Sessions by Superseedeas out of the Chancery, testifying surety found there against all the Kings people for ever, will discharge

charge the appearance of the next Quarter Seſſions. Otherwiſe it is, if it be but untill a day certaine, *Lam.*99,106,107. *Dal.*173.

Who ſhall be amerced for default of appearance, and who not, *vide* Amerciaments. Releaſe.

## Appeachment, *vide* Approvers, Appeale.

Juſtices of Peace can take no appeale of any felony, *Lam.*550. *Stamf.*65.a. *quære tamen.*

Appeale of robbery, *vide* Attainder.

## Apprentices.

One thought fit to be bound as an Apprentice, upon complaint made, and refuſing to be bound, ſhall be committed till he will be bound, 5.*El.*4.*Dal.*78.

Upon complaint of an apprentice, one Juſtice may take order betwixt his maſter and him, and for want of conformity in the maſter, may bind him to appeare at the Quarter Seſſions, *Dal.*78. and to bee diſcharged by foure Juſtices. If default bee in the apprentice, it ſeemeth one Juſtice may ſend him to the houſe of Correction, *Dal.*78.

Aſſent of two Juſtices is ſufficient to the Churchwardens or Overſeers, or the moſt of them, to bind as apprentices the ſons of poor parents, not able to keep and maintaine them, till 24.yeers of age, or their daughters till 21.yeeres of age, 39.*El.ca.*3. 43.*El.ca.*2.

*Dal.*

*Dal.*83. *Lam.*331. 21. *Jac.c.*28. continued by 1. *Jac.c.*25.

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by the Corporation, and in Townes not corporate by the Parson or Vicar, Constable, Church-warden, and Overseers for the time being, or most part of them, the same to be according to the will of the Giver: And any of the disposers forbearing and refusing to dispose of the monie, whereby it is not disposed, shall lose 3. pounds 6. shillings 8. pen. one moytie to the poore of the Parish, the other to the Informer, 7. *Jac. ca.*3.

Disposers of such monie given for apprentices, are to take bond with two sureties of such master or mistresse, for such monie as they shall so receive, for the repayment thereof at the end of seven yeers, or three moneths after, 7. *Jac. ca.*3. Or if the apprentice dye within 7. yeers, then to repay the monie within one yeere after such master or mistresse death, 7. *Jac. ca.*3.

The master or mistresse dying within seven yeers, the disposers are with the said mony to put out the said apprentice to some of the said trade, to serve out the residue of his 7. yeers, 7. *Jac. ca.*3.

Monie given for putting forth apprentices, is to be disposed within three moneths after the receit, *Ibid.*

None above 15. yeeres old are to be placed by the disposers, and those to be of the poorer

poorer ſort; and for want of ſuch they may chooſe others of the Pariſh next adjoyning, *Ibid.*

Diſpoſers of monie for apprentices are to accompt before two Juſtices next adjoyning yeerly in Eaſter weeke, or within a moneth after: and within ten daies after ſuch accompt made, muſt deliver all ſuch mony and bonds remaining in their hands, to ſuch as ſucceed in their roomes, *Ibid.*

He is no apprentice, if he be not retained by Indenture, and by the name of an apprentice expreſly, *Cro.* 185. b.

Breakers of truſt for diſpoſing money given for apprentices, are to be examined and redreſſed by Commiſſion out of Chancery returnable within 3. moneths, and the party grieved by an act of the Commiſſioners is to be relieved upon his Bill in Chancery, 7. *Jac. cap.* 3.

Certificate to the head-officer of City or Borough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldſmith, Ironmonger, Embroiderer, or Clothier, may diſpend 40. ſhil. freehold, muſt be under the hands and ſeales of three Juſtices where the land lieth, 5. *El. ca.* 4.

Apprentice is to be diſcharged by foure Juſtices in open Seſſions, *Dal.* 79.

The diſcharge of an apprentice is to bee inrolled by the Clerk of the Peace, 5. *El. c.* 4. *Vide plus* Labourers.

A maſter putteth his apprentice into apparrell, hee cannot take it away, though hee part

part with his apprentice, *Dal.96.*

Every housholder having halfe a ploughland in tillage may take an apprentice betwixt the age of 10. and 18. to serve in husbandry, which must be by Indenture, *5.El. cap.4.*

## Approvers or Appeachers.

Gaoler, keeper, or under-keeper by paine compelleth his prisoner to become an appeacher of others, it is felonie, *14.E.3.ca.10.*

Justices of Peace can take no appeale of an approver, *Lam.550. Stamf.144.a. Dal.320.*

One felon accuseth another before a Justice of Peace; they may take his confession and reprieve him, and so proceed against the other, *Lam.551.*

## Archery.

"Justices of Assise, Gaole-delivery, and of "the Peace, & Stewards of Leets have power "to enquire, heare, and determine of the Sta. "33.H.8.c.9. and also by their discretion ex- "amine all persons, lacking and not having "bowes, shafts, and arrowes, according to the "forme of the said Statute; *viz.* being un- "der 60. yeers, and have not in his house bow "and arrows, or have not used shooting. And "every man-childe between 7. & 17. yeers of "age, not having a bow and two shafts: and "above 17. yeers, four shafts, he loseth for eve- "ry moneth 6. shill. 8. pen. *Lamb.481.33.H.8.* "*c.9.*

Armour

# Armour.

Any (except the Kings Officers and their companie doing their ſervice) riding or going armed, or bringing force in affray of the people, are to be impriſoned, and loſe their armour, 2. *E.* 3. *ca.* 3. *Dal.* 35. *Cro.* 76. a.

Juſtices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon inquiry by the Judges of Aſſiſe, are to be by them puniſhed, 2. *Ed.* 3. *cap.* 3.

The counterpain of the Indenture of armour to be kept by the Clerke of the Peace, 4. & 5. *Ph.* & *M. ca.* 2.

The Statute 4. & 5. *Ph.* & *Ma.* concerning keeping of horſes and armour, with the penalties thereof, are repealed, 1. *Jac. c.* 25.

Armour and Munition of a Recuſant convicted, being in his own poſſeſſion, or at his diſpoſe, other then ſuch as ſhall be thought meet for the defence of his perſon and houſe, by warrant of foure Juſtices at the Quarter Seſſions are to bee ſeiſed and kept at ſuch place as the foure Juſtices at the Seſſions ſhall appoint, at the coſt of the owners; and they, concealing or diſturbing the delivery of it, loſe the armour and munition, and by warrant from any Juſtice of Peace, to be impriſoned 3. moneths without baile, 3. *Jac. c.* 5. Recuſant having his armour ſeiſed, is to be charged with ſuch armour and horſe, as hee and others of his Majeſties ſubjects ſhall be commanded to ſerve with at muſters, 3. *Jac. cap.* 5.

Any

Any Juſt. of Peace may arreſt any (except the Kings officers, and ſuch as doe him ſervice) that goe armed, and bind them to the peace, or good behaviour, *Cro.76.a. Dal.30. Lam.* of Conſt.13.

A Juſtice of Peace may cauſe weapons to be taken from priſoners brought before him, *Dal.36.*

No ſervant in husbandry, artificer, victualler, or labourer, ſhall weare ſword or dagger, 12.*R.2.c.6. Dal.36. Cro.76.b.*

## Arreſts.

An Arreſt is a certain reſtraint of a mans perſon, depriving it of its owne will and liberty, and binding it to become obedient to the will of the law, *Dal.343. La.93. Cro.38.a. nu.1.*

All lay perſons under the degree of a Baron or Peere of the Realme, are ſubject to an arreſt, *Lam.93. Dal.343.*

Eccleſiaſticall perſons not attendant upon divine Service, may be arreſted for the peace, *Lam. ibid. Dal.166.*

Conſtable, or Juſtice of Peace comming to arreſt an affrayer, if hee flie into another houſe, they may in freſh ſuit breake open the doore, and take him: So if he flie into another County, *Lam.134. Dal.34.*

All that come to the Seſſions for publike ſervice, or upon compulſion, upon complaint and examination of the matter by oath, ſhall be freed from any arreſt upon originall proceſſe, *Lamb.402.*

Bailiffe

Bailiffe taking above 4.pen. for any arreſt, ſhall forfeit 40.li. 23.*H.*6.*ca.*10.

The officer ought to require the party to come and find ſurety of the peace, before hee arreſt him, by the opinion of 5.*Ed.*4.31. *Lam.*90. *Dal.*166.

If one required by the officer upon warrant to find ſurety of the peace, refuſe, the officer by vertue of his warrant may convey him to priſon, *Lam.*92. *Dal.*171.

"In all criminall cauſes where one incur-
"reth loſſe of member, or of life, every man
"may arreſt him, whether he have warrant or
"not, *Dal.*344. But where a private man ar-
"reſteth any in the caſes aforeſaid, he ought
"to deliver him to the Conſtable, or ſome of-
"ficer, *Dal.*348.

"When a felony is committed, 1. any man
"that ſuſpects another may arreſt him: 2. or if
"there be common fame that he committed
"the felony: 3. or if he be proſecuted with huy
"and crie: 4. or if hee be in company of the
"offenders: 5. or he apparantly goe about to
"commit a felonie, *Dal.*345. *Vide Cro.*99.b.

"A man is ſlaine, or a felony committed,
"and an innocent party is arreſted for the
"ſame, he cannot be delivered but by order of
"law, *Cro.*40.b. *nu.*20. *Dal.*279, 304. *Lam.*233.

A Conſtable taking an affrayer, may not impriſon him in his houſe, but in the Stockes; *Lamb.*133. *Vide* Riot, Sheriffe, Priſon.

## Arraignment.

Arraignment is commonly a compulſory comming

comming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty, *Lam.*546.

One comming in freely, and indicted of an inferiour offence, may bee arraigned, *Lam.*547.

One arraigned of felonie, if his case will serve, may plead a justification or matter in law, *Lam.*547. And the Court shall assigne him counsell. *Cro.*110.*nu.*5.

"He that is arraigned of felony shall have "leave to bring him into the Court, who sold "the thing to him, and the Court shal assign "him counsell, *Cro.*110.a *nu.*3.

## Artificers, *vide* Labourers.

## Assault.

Assault cannot be made without the offer of some hurtfull blow, or at least of some fearfull speech. *Lamb.*126.

To rebuke a collectour with foule words, so that he depart with feare, without doing his office, was taken for an assault. *Lamb.ib.*

To strike at a man, although he were neither hurt nor hit with the blow, is an assault. *Lamb.ibidem.*

Maker of an assault, battery, or other trespasse upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a yeere,

yeere, and any other corporall punishment saving life and member. 5. *Elis. cap.*4.& 5. *Dal.*80. *Cro.*84.2.

If another assault me, if I may escape with my life, it is not lawfull for me to beat the other. *Dal.*210.

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other. *Dal.* 210. Yet by opinion of *Elyot*, 12. *H.*8. *fo.*2.b. it is not lawfull, except there be such perill as another is like to perish if there be no help. *Dal.*184.210.

'A man taketh away my goods which are 'in my possession, I may take them againe 'with force, *Cro.*65.b. *nu.* 60.61. & 137.2. 'Dal.181. But I must first lay my hands on 'him, and disturb him, and if he will not 'leave, then I may beate him, rather then he 'shall have my goods, *Dal. ibid.*

## Assembly unlawfull, *vide* Unlawfull assembly.

## Assize of Bread and Beere.

Any Brewer, or Baker, or Tipler, breaking the Assize of Bread and Ale, to bee fined. 13. *R.*2. *c.*8. *Lam.*459.

Any officer taking fine for breach of the Assize of Bread and Ale, where there ought to be a corporall punishment, is to be fined. 13 *R.*2. *c.*8. *Lamb.*459.

## Attainder.

## Attainder.

One attainted of felony may be arraigned for treason committed before or after the attainder. *Lam.*557,558.

One attainted upon an appeale of robbery, may be arraigned upon an appeale of robbery at anothers suit. *Lam.*558.

One attainted of felonie, by standing mute, may after be arraigned of another felonie. *Lam.*558.

One attainted of felony, cannot after be arraigned for another felony, so long as the first is unpardoned, unlesse it be in the cases before. *Lam.*557.

After the attainder, the felons grant of goods or lands bindeth all persons, except the Land-lord, to whom they escheat. *Dal.*303.

Indictment is, when an offence is found by the great Inquest, or other Jury of inquirie.

Conviction is, when the offender is found guilty by [illegible] having put himselfe to triall.

Attainder is, when after such conviction judgement is given against the offender. *Dal.*304.

## A wait lying, *vide* Way-laying.

## Averrements.

No man shall be received to averre or speak against a record. *Lam.*63.

Badgers

## Badgers and Drovers.

LIcence to Badgers and Drovers, and Loaders of corne, must be in open Sessions, and there registred and kept by the Clerk of the Peace. 5. *El. c.* 12. *Lam.* 610.

Offences against the statute of Badgers and Drovers may be enquired of as well by examination of witnesses, as by presentment. 5. *El. cap.* 12.

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Justices of Peace. 5. *El. cap.* 12.

"Clerk of the Peace must make and write "all Licences made to Badgers, Laders, and "Drovers, and keepe a booke to register the "same, and the recognisance taken before the "Justices of Peace, which recognisance must "be [*That they shall not do any thing*] "*to the statute* 5. *Ed.* 6. *cap.* 14. *provided against* "*forestallers*,] and therein write the names "and sirnames and places of the licensed, "with a briefe entry of the licence, day, time, "and place where it was granted, and bring "the same to every Sessions, taking for the "licence xii. d. for the recognisance viii. d. and "for registring iiii. d. 5. *Eliz. cap.* 12.

## Bailement.

Bailment, Mainprise, or replevin, is the saving or delivering a man out of prison be-

fore he hath ſatisfied the law; ſo by finding ſureties to anſwer, and to be juſtified by the law. *Lam.*340. *Dal.*312.

He that is bailed, is delivered into his ſureties hands to be kept. *Cro.*152.b. *nu.*6. *Stam.* 65.a. *Dal.*312.

If the ſureties doubt the eſcape of the priſoner bailed, a Juſtice of Peace upon prayer may diſcharge the ſureties, and commit the party to priſon. *Dal.* 312. *Cro.*153.a. *nu.*13. & 157.2.

A Juſtice of Peace may cauſe the bailed to find better ſureties. *Cro.*152.b. *nu.*4. *Dal.*312.

It is requiſite to take two ſubſidie men for baile, eſpecially if it be for felonie, or ſuſpicion thereof. *Dal.*313.

To detaine a priſoner that is baileable, is fineable. *Dal.*313.

To baile one not baileable, is a negligent eſcape. *Dal.*313.

A Juſtice of Peace bailing contrary to the law, or not certifying the bane and examination of the felon, is fineable by the Juſtices of Gaole-delivery. *Lam.*345.1. & 2.*P.C.* *M.C.* 13. *Cro.*167.b. *Dal.*313.

Where one is bailable, he muſt offer ſureties. *Dal.*313.

## *For what offences a man is not bailable by a Juſtice of Peace by the ſtatute of* W.1. 3.Ed.1.15. Cro.156.a. Lam.345.

1 Abjured the Realme. *Dal.*316.

2 Ap-

2 Approver or appellour. *ibid.*

3 Appealed by an approver, *ibid.*

4 Burning a houſe felonioufly. *ibid.*

5 Excommunication taken at the Biſhops requeſt. *ibid.*

6 Felon taken with the manner. *ibid.*

7 A knowne theefe and defamed. *ibid.*

8 Outlawed. *ibid.*

9 Priſon-breaker. *ibid.*

10 Traitour to the King himſelfe. *ibid.*

11 Falſifier of the Kings money. *Dal.* 317.

12 Counterfeiter of the ſeale. *ibid.*

13 Attainted or convicted of felonie. *ib.*

14 Acceſſary to two felonies, if one principall be attainted. *Dal.* 319.

15 Death of man, if he be principall. *ib.*

16 Taken upon Proces of rebellion iſſuing out of Chancery or Star-chamber. *Lamb.* 347. *Dal.* 320.

Arreſted by Proces, Writ, Bill, or Warrant, in an action perſonall. *ibid.*

18 Perſons convicted of felony, praying Clergy and reprieved. *Cro.* 154. a. *nu.* 2. *Dal.* 318.

## *For what other offences a man is not baileable by a Juſtice of Peace.*

A Juſtice of Peace is not to baile but in cauſes which he may heare and determine. *Lamb.* 347. *Dal.* 320.

Murder, or any other homicide. *Dal.* 315.

Confeſſing the fault of manſlaughter. *ibid Lamb.* 34.

Taken in the manner for killing. *ibid.*

Knowne to have killed a man. *ibid.*

By the King, or his privie Councell. *Dal.* 316.

By the abſolute, not ordinary command of the Kings Juſtices. *ibid.*

For treſpaſſes in the forreſt. *Weſt.* 1. *cap.* 15.

Confeſſing the felony whereof he is accuſed. *Cro.* 152. 6.

Impriſoned for ſurety of the peace. 23. *H.* 6. *c.* 10. *Lamb.* 346.

Speciall commandement of any Juſtice. 23. *Hen.* 6. *cap.* 10. *Lamb. ibid.*

*Where Bailment is taken away by ſtatute. vide Lam.* 349 *Dal.* 320.

## *For what offences a man is bailable.*

Taken for light ſuſpicion. *Dal.* 317.

Indicted of petty larceny, not being formerly guilty of another. *ibid.*

Charged, 1. With the receipt of thieves, of felons. *Dal.* 318.

2. Of commandment force or aid in felony done. *ibid.*

3. With the treſpaſſe that toucheth not loſſe of life or member. *Dal.* 319. *Weſt.* 1. 15. (if not prohibited by ſome latter ſtatute) appealed by an Approver, being no common thiefe, nor defamed after the death of the Approver. *Dal.* 320.

Indictment of manſlaughter, and acquitted. *Lam.* 347.

Acquitted of murder or manſlaughter at the

the Kings ſuit, bailable during the yeere. 3. *H.* 7. *cap.* 1. *Lam.* 347.

Impriſoned by Proces out of the Seſſions upon penall lawes not forbidding baile, bailable out of the Seſſions by two Juſtices, one being of the Quorum. *Lam.* 348. *Dal.* 319.

Accuſed of homicides which are not felony.

Acceſſary to felonies. *Dal.* 318.

If they bee found of good fame, untill the principall be convicted or attainted: but after the principall is attainted, hee is not bailable, except hee plead not guilty or other plea. *Dal. ibid. &* 321.

Principall in burglary. *Dal. ibid.*

Principall in an indictment of robbery. *Dal. ibid.*

Principall in an appeale of robbery. *Dal. ibid.*

Attached by Seſſions Proces upon indictment of treſpaſſe, may be bailed by one Juſtice of Peace to appeare at the day to anſwer the indictment, and may make his Superſedeas, *de cap. indict.* and ſo of the exigent. *Dal.* 319.

In every bailment which muſt bee by two Juſtices, one of them being of the Quorum, the Juſt. muſt be preſent together at the time of bailment, who before baile taken muſt examine the priſoners, and receive the information of them that bring them: all which with the bailment they muſt put in writing, ſigned or ſubſcribed with their owne hands, and certified at the next Gaole delivery to be holden in the County. 1. *&* 2. *P. & M. ca.* 13. *Dal.* 314.

The ſaid Juſtices have authority to binde all perſons that can give evidence, to appeare the

next Gaole-delivery to give evidence againſt the party at the time of his tryall. *Dal.*303.

Some ſtatutes not onely take baile from the offenders thereof upon their ſolemne conviction after judgement, but alſo upon the record of one or two Juſtices, or by examination or proofe of witneſſes, or other ſuch private tryall had before them. *Lam.* 349. for the forme of bailment, *Lam.*252. The forme of the liberate. *Dal.*396. *Lam.*352.

## Bailiffes.

A Bailiffe was puniſhable in falſe impriſonment, if he compell the party to go before any other Juſtice than he chuſeth. *Lam.*89.94.

But now the law is adjudged to be, that the Bailiffe or Conſtable ſhall chuſe the Juſtice. *Dal.*59. and *Coke l.*5.59. *b.* Foſters caſe.

As the Bailiffe may not compell him that is arreſted for ſurety of the Peace, to go before him that granted the warrant; ſo it is not reaſonable that the Bailiffe ſhall be drawne out of the diviſion and limit where they both dwell. *Lam.*95. *Dal.*171.

A Bailiffe arreſts a man without a warrant for the Peace, and afterwards procures one, he is puniſhable in falſe impriſonment. *Dal.* 341. *Cro.*149.2. *Lam.*90.

A Bailiffe arreſts one by warrant for the Peace, the Juſtice will not binde the party, no action lieth againſt the Bailiffe. *Dal.*1. *Lam.*91.

Two Juſtices of Peace, one being of the Quorum, may give unto the Bailiffs of Franchiſes before they exerciſe their offices, the oathes of 1. *Eliſ.* of ſupremacie, and 27. *Eliſ.* touching their

their offices. 27. *Eliſ. cap.* 12.

Bailiffe taking above foure pence for an arreſt, is to forfeit 40. li. 23. *H.* 6. *cap.* 10. and loſe treble dammage to the party damnified.

Bailiffe of the Hundred that executeth not a warrant againſt any defendant in the Sheriffes Court, ſhall loſe 40. ſhill. 11. *H.* 7. *c.* 15. *Vide plus* Warrants.

## Bakers, *vide* Aſſiſe of Bread.

## Barettour.

A common Berettour is he, who is either a common mover, ſtirrer up, or maintainer of ſuits in law in any court, or quarrels in the countrey. *Dal.* 36. *Lam.* 440. *Cro.* 84. *a.* and is to be bound to his good behaviour, and impriſoned. *Lam.* 440. *Vide plus Dal.* 36. *Coke* 8. 36.

## Bargaine and Sale, *vide* Inrolment.

## Barke of Trees, *vide* Leather.

## Baſtardy.

Two Juſtices of Peace, one being of Quorum, in or next to the Pariſh, where a baſtard left to the charge of the Pariſh, or likely to bee chargeable, is borne, are to take order for the reliefe of the Pariſh, keeping of the child, and puniſhment of the reputed father and mother. 18. *El.* 3. 7. *Jac. ca.* 4. *Dal.* 37.

The reputed father and mother not performing the order ſet downe by two ſuch Juſtices, the delinquent is to be ſent to the Gaole without baile, except they put in ſureties to performe the order, or appeare at the next generall Seſſions of the Peace. *Dal.* 38.

"If the Juſtices of the Peace do not agree "upon an order, it is to bee referred to the "Bench. *Dal.* 25.

"*Quadraginta ſeptimanæ ſunt legitimum tem-*"*pus mulieribus conſtitutum.* Coke Inſtit. 123. "Dal. 38.

"The mother may bee examined upon oath, "concerning the reputed father, the time and "other circumſtances. *Dal.* 37.

"By 7. *Jac. ca.* 4. the mother is to bee com-"mitted to the houſe of correction for a yeere: "but not till after delivery, and the child li-"ving. *Dal.* 38.

"If ſhe offend the ſecond time, ſhe is to bee "committed to the houſe of correction, and "there remaine till ſhee finde ſureties for her "good behaviour, and not to offend againe. "7. *Jac.* c. 4. *Dal.* 38.

All Juſtices of Peace in their ſeverall limits, and in their Quarter Seſſions, may do all things concerning the ſtatute, 18. *Eliſ.* for Baſtardy, which is limited to the Juſtices of Peace in ſeverall counties. 3. *Car. cap.* 4.

Reputed father to bee bound to the good behaviour till the child be borne. *Dal.* 37.

*Vide plus* Houſe of Correction.

If the putative father ſhall either before or after the birth of the child, by practice of any other, convey himſelfe away, or cauſe the mother to run or leave her child, ſuch may bee bound over to the next Gaole delivery or Quarter Seſſions. *Dal.* 37.

## Battery lawfull, *vide* Riot, Aſſault, Breach of the Peace.

Bath

## Bath and Buxton, *vide* Licence.

## Bawdery.

Bawdery is not meerely a ſpirituall offence but mixt, and ſoundeth ſomewhat againſt the Peace. *Lam.* 119. *Dal.* 193.

A Conſtable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a ſuſpected houſe in the night, may take company with him, and if hee finde them ſo, he may carry them to priſon, or to a Juſtice, to be bound to their good behaviour. *Dal.* 193.

Reſorters to bawdy-houſes are to be bound to their good behaviour. *Dal. ibid.*

Keepers of bawdy-houſes are to be bound to their good behaviour. *Dal. ibid.*

## Beads, *vide* Agnus Dei.

## Beare-wards, *vide* Licence.

## Beere and Beere-brewers, *vide* Victuallers.

## Beggers, *vide* Rogues and poore people.

## Blockwood, *vide* Logwood.

## Bloudſhed.

Preſentment of bloudſhed found in the Sheriffes Turn, and ſent to the Juſtices of Peace, can neither be traverſed before the Juſtices of Peace, nor at the Sheriffes Turn. *Lam.* 543.

## Bowyers, *vide* Archery.

## Brasse and Pewter.

Brasier nor Pewterer may exchange or sell any Brasse or Pewter, but in open Market or Faire, or in his house, unlesse upon request of the buyer, on paine of ten pounds for each offence. 19. *H.* 7. *c.* 6. 4. *H.* 8. 7. and inquirable at the Sessions. *Lam.* 621.

All working hollow wares of other lay metall, than according to the assize of the lay metall wrought in London, or not setting their seale on, lose the wares. Searchers of Brasse and Pewter must be appointed by the Justices of Peace at Michaelmas Sessions. 19. *H.* 7. *c.* 6. 4. *H.* 8 *c.* 7. *Lam.* 621.

## Breach of the Peace, or good behaviour.

### *What shall be accounted a breach of the Peace.*

To threaten one to his face to beat him, at whose suit he was bound. *Lam.* 115. *Dal.* 181. *Cro.* 136. *b.* or in his absence, if hee after lie in wait to do it. *ibid.*

To command or procure one to do any unlawfull act against the Peace, if it after be done.

Menacings, affrayes, assaults, injurious and violent handlings and entreatings, battery, and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason. *Dal.* 181. *Lam.* 127.

A Farmer, Tenant, or Commoner, by threats

threats or blowes to repulse violence offered his Land-lord or Maior. *Lam.*129. *Dal.*185.

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance, made for keeping of the Peace. *Dal.*181. *Lam.*114.

"A Justice of Peace certifieth into the K. "Bench that such a man broke the Peace in his "presence, the party shalbe put to his fine with-"out any traverse. *Cro.* 132. 2.

## *What not.*

In his absence to threaten to beat him, at whose suit he was bound to the Peace. *Dal.*181.

Threats or moderate correction of the Master, Schoolmaster, Gaoler, to those under their command, of Parents to the child within age, of the Lord to his villain. *Lam.*127. *Dal.*183.

To beat with rods a kinsman that is mad, to the end to reclaime him. *Dal. ibid. Lam.*128.

Constable, Officer, or any of their company, to strike any for better execution of their office. *Dal.*180. *Lam.* 128. By threats or blowes to repulse violence offered to ones own person, wife, father, mother, child, master. *Dal.*184.

Preservation of his owne goods. *Ibid. Lam.* 129. and *Crom.* 136. b. affirme that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quære of it, and that a Master may only with sword or staffe defend him. *Dal.*185. *Pax Reg.*5.

To kill or hurt one at fence, play, tilt, turnament, or barriers in the Kings presence, or by his command. *Dal.* 184. *Lam.* 129.

To take ones goods wrongfully, if not from his

his perſon. *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his recogniz. *Cro.* 65. b. *nu.* 49. 8. 137. a.

So to take anothers Ward. *Dal.* 186. *Lam. ibid.* To diſſeiſe another of his Ward. *Dal. ibid.*

To treſpaſſe in anothers corne or graſſe. *ibid.*

Treſpaſſe lyeth at the Common Law, for threatning to beat one.

*Vide plus* Forfeiture.

It is no breach of the Peace for a private man to ſtrike or wound another in defence of his owne perſon from beating, wounding, or killing: but if hee may eſcape with his life, without being wounded, maimed, or hurt, it is not lawfull, except hee firſt flie as farre as hee can. *Dal.* 184. *Cro.* 137. a.

To take a dogge of any kinde, or other thing of pleaſure from the perſon of another, or in his preſence with force or violence, amounteth to a breach of the Peace. *Dal.* 168.

## Brewers, *vide* Victuallers.

## Bridges.

"By common right Bridges ſhould be amended by the whole County, for it is for the "common eaſe of the County. *Cro.* 187. b. yet "if any have fiſhings or profit in that river they "are chargeable. *Cro.* 186. b.

A man voluntarily maketh or amendeth a Bridge; he is not compellable to do the ſame againe, unleſſe he and his anceſtors have uſed ſo to do time out of minde. *Dal.* 41. *Cro.* 186. a.

"Where a man and his anceſtors have uſed "time out of minde to repaire a Bridge, the "King cannot acquit him. *Dal.* 41.

It being not knowne, who, or what land is chargeable

chargeable with the repayring of a decayed Bridge, foure Justices, one being Quorum, may tax the Inhabitants and make Collectors, and "Overseers for repayring of it: And appoint "Surveyours, and exact an accompt of them, "and if they refuse so to do, the said Justices "may make out Proces against them, by At-"tachments, Precepts, or Warrants under their "seales, returnable at the Quarter Sessions, and "may allow reasonable costs to the Surveyours "and Collectors. 22. H. 8. ca. 5. Dal. 40.

"A man and his ancestors or a Corporation "time out of minde used to make a Bridge, "though they did it freely at the first and not "of right, it shall conclude, the heirs and succes-"sors. Dal. 41. Cro. 186. a.b. Prior of Stokes Case.

Justices of Peace where a decayed Bridge is, may award Proces into the County where the party or land chargeable is. Dal. 40.

A Bridge lying within a Corporation, the Hundred shall not bee charged therewith. Et è converso. Dal. 40. 41. Cro. 187. b.

A Bridge lying in two severall Counties, either must repaire his part. Dal. 40. Cro. 187. b.

"A common Bridge lying within a Fran-"chise, they must repaire it. Cro. 187. b. Dal. 40.

"A man is to repaire some arches at the end "of a Bridge: if the Buttresses be decayed, hee "is to follow the course of the water, and to "repaire the high way without leave of the "owner of the land, and lay stones, &c. neces-"sary, upon the adjoyning land of another. "Cro. 186. b. Dal. 42.

"He that is bound to repaire a Bridge, must "maintaine the way at each end. Cro. 186. b.

Buckstalls

## Buckstalls.

One suspected to have offended against the statute, 19.*H.*7.*c.*11. of deer-hayes, and buck-stalls, &c. is to be examined by two Justices at Quarter Sessions, and being convicted by his owne examination onely, is to bee imprisoned till hee finde surety for the forfeiture. 19.*H.*7. *c.*11.*Lam.*535. 630. the tenth part whereof the Justices examining shall have. *ibid.*

## Buggery.

The sin of Buggery with a man or Beast, is felony. 25.*H.*8.*c.*6. 5.*El.c.*17. *Lam.*227. 256. 421.

## Bull from Rome, *vide* Treasons.

## Burglary.

Burglary is when one or moe in the night time do break a dwelling house, or a Church, or the wals or gates of a City or walled Town, with an intent to do felony, albeit they carry away nothing. *Dal.*256. *Lam.*258. 423. *Cro.*31. a. *nu.* 1.

The night is from sun-setting to sun-rising, *ibid. Lam.*259. 423. 424. *Dal.*256.

### *What act shall make a burglary without entring into the house.*

Putting back the leafe of a window. *Dal. ibid. Lam.*262.

Drawing the latch of a doore. *Dal. ibid. Cro.* 33. b. *Lam. ibid.*

Turning the key being on the inside. *Cro.*31. b. *Dal. ibid. Lam.*262.

Breaking

Breaking the glaſſe-window, and hooking out of goods. *Lam. ibid.*

Making a hole in the wall, and ſhooting one within the houſe. *Dal.* 256. *Lam.* 262. *Cro.* 31. b. *nu.* 7.

The doore being open, to put his hand over the threſhold, and diſcharge a dag at any within. *Dal. ibid. Cro.* 32. a. *nu.* 11. *Lam.* 263.

They within caſt out their money for feare, and they without carry it away. *Cro.* 31. b. *nu.* 9. *Lam.* 261. 262. *Dal.* 257.

## *Without breaking the houſe.*

To ſet foot over the threſhold with a felonious intent. *Dal.* 257. *Cro.* 32. a. *nu.* 13.

To come downe by a chimney. *ibid.*

To come in by help of a key. *Cro.* 31. a. *nu.* 8. *Lam.* 262. *Dal.* 257.

To enter the doores being open, and the owner flying to his chamber, to ſhove at the chamber doore. *Dal. ibid. Lam.* 262. *Cro.* 32. b. *nu.* 25.

If pretending to bee robbed, by help of the Conſtable for ſearch they rob the owner. *ibid. Lam.* 263. *Dal.* 257. *Cro.* 32. b. *nu.* 24.

If upon conſpiracie with a ſervant, the ſervant openeth the doore, and the thiefe entreth. *Dal.* 257.

One entring, and the reſt ſtanding about the houſe, or not farre off. *ibid. Lam.* 264.

To enter under the threſhold.

## *What place makes Burglary.*

Publike, as Church, wals or gates of a City or Towne walled: Private, as a dwelling houſe, if any be within. *Dal.* 257. *Cro* 33. a. *nu.* 32. *Lam.* 260. 261.

The

The family for part of the night is abroad, and in the interim the house is robbed. *Dal.* 258. *Cro.* 33. b. *nu.* 40.

A man hath two dwelling houses, and dwelleth sometime at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken. *ibid. Cro.* 33. b. *nu.* 40. *Dal. ibid.*

To break a chamber in a Colledge or Inne of Court, though no body is in the chamber. *Dal.* 258. *Lam.* 261. *Cro.* 33. a. *nu.* 29.

Breaking a barn or stable neere to a dwelling house, to the intent to steale. *Dal. ibid. Cro.* 32. *Lam.* 261.

Robbing a back house. *Dal. ibid.*

To enter to ravish a woman: Quære *Dal.* 255.

The Hoste of an Inne breaking into his Guests chamber to rob him. *Dal.* 258.

## What not.

Entring onely with intent to beat. *Dal.* 259. *Lam.* 264.

Breaking and departing without entring. *Lam.* 262. but it is felony. *ibid. Lam.* 261. it is not burglary in one under 14. yeeres of age. *Dal.* 259.

Nor in poore persons, that upon hunger break and steale under the value of 12. pence. *Dal.* 260.

Nor in naturall fooles, or *non compos mentis. ibid.*

## Burning of houses.

Malicious burning of houses, being dwelling houses, or barne with corne in it is felony. *Dal.* 273. *Lam.* 266. 424. *Cro.* 31. a. *nu.* 3.

Burning

Burning of an empty barne in the night felonioufly, if it be nigh a dwelling houſe. *Dal.* 274. *Lam. ibid.*

All burning that proceedeth of a former burning that was malicious, is felony. *Lam.* 266.

"One intending to burne anothers houſe "fireth it, and part only is burned and quench-"ed, it is felony. *Dal.* 274.

"One ſhooteth unlawfully in a hand-gun, "and the fire ſetteth another mans houſe on "fire, and burneth it downe, it is felony. *Dal.* "274.

Burning of a ſtack of corne felonioufly. *Dal.* 274.

## Butchers.

Butcher gaſhing a hide whereby it is hurt, loſeth 20. pence. 1. *Fac. c.* 22. *Lam.* 462.

Butchers watering any hides, except in June, July, or Auguſt, loſe 3. ſhill. 4 pence an hide. *ib.*

Butcher or any other killing calves to ſell under five weekes old, loſeth 6. ſhill. 8. pence a calfe. *Lam.* 453.

Or killing any weanling, bullock, ſteere, or heifer, under the age of two yeeres. *Lam.* 453. 24. *H.* 8. *c.* 9. *vide* Victuallers.

## Butter and Cheeſe, *vide* Victuals.

## Butts.

Inhabitants of a Towne, not continuing their Butts as they ought, are to loſe for every three moneths 20. ſhill. 33. *H.* 8. *c.* 9. *Lam.* 481.

## Buying and ſelling, *vide* Cattell.

Calves

## Calves and Kine.

ANy killing Calves to ſell under five weeks old, loſe for every one 6. ſhillings 8. pence, 1. *Jac.* 22.

Any feeding in his owne ground fit for milch Kine, wherein none hath common, above 120. Sheep more than for his owne proviſion, muſt raiſe one Calfe for every 60. Sheep, or loſe 20. ſhillings a moneth for each Calfe, and keep one milch Cow for every ten Oxen, Runts, &c. ſo fed, if he feed above twenty. And for every two milch Kine muſt reare one Calfe yeerely, except it dye, upon the like paine. 2. & 3. *P.* & *M.* *c.* 3. 13. *El.c.* 25. 7. *Jac.c.* 8. *Lam.* 453.

Offences againſt this ſtatute are determinable at the Quarter Seſſions.

## Captains.

Any Muſter-maſters taking reward for diſcharging any from ſervice, loſe ten times ſo much, or 20. li. 2. *E.* 6. *c.* 2. *Lam.* 482. 483.

Captains, or others, having the charge of men for warre, keeping back part of their pay, loſe to their ſouldier treble ſo much as is not paid: or for gaine licenſing any to depart, loſe ten times the gaine. 2. *E.* 6. *bid.*

*Vide plus* Travelling.

## Caſtle, *vide* felony.

## Cattell.

Buyer of live Oxen, Runts, Steeres, Kine, Calves, Sheep, Lambs, Kids, and Goats, if he ſell

ſell them within five weekes after, loſeth the double. 5 *E.6.c.14. Lam.452. vide* Badgers.

## Certificate.

Recogniſance and releaſe of the Peace, both are to be certified at the next Quarter Seſſions. 3.*H.7.c.1.* but no paine by the ſtatute tothe Juſtice if he do not. *Lam.* 111. *Dal.* 177. *Cro.* 139. 2.*nu.*111.

One that is bound to the Peace, maketh default at the day of his appearance, the Recogniſance with the record of the default of his appearance muſt be certified into the Exchequer, Kings Bench, or Chancery: So if it be preſented that hee hath broken the Peace. *Lam.* 589.

Sheriffe muſt certifie to the Juſtices at the next Seſſions, indictments lawfully found and taken at his turne or law-day. 1. *E.* 4. *c.* 2. the penalty is 40. pound.

Clerke of the Crowne muſt certifie the names of any that have beene out-lawed of felony, or Clerks convicted or attainted upon the letter of a Juſtice of Peace, or loſe 40. ſhill. 34.*H.*8.*c.*14.

Tranſcript of every attainder, outlawry, or conviction had before the Juſtices of P. muſt be certified into the Kings Bench by the Clerke of the Peace within 40. dayes after the attainder, if it be in Terme; if not, within 20. dayes after the beginning of the next Terme, on paine of 40. ſhillings. 34.*H.* 8. *c.* 14. Clerke of the Peace muſt certifie to the Ordinary a tranſcript of the Clerkes convicted or attainted, 34.*H.*8.

*cap.*

*cap.* 14. Quære, becauſe by 18. *El. c.* 6. no delivery to the Ordinary. *Lam.* 588.

*Cuſtos Rotulorum* of the County where one is attainted as principall of felony, upon writing of the Juſtices of the Gaole delivery, or Oyer and Terminer of another County where one is acceſſary unto the other, muſt certifie what is done with the principall. 1. *E.* 6. *c.* 24. *Lam.* 588. 589.

Where the Juſtices are to receive indictments and no power to proceed upon them, they muſt certifie them into the Kings Bench without *Certiorari. Lam.* 589.

Abjuration of a ſeditious ſectary made in open Quarter Seſſions, muſt bee certified at the next Aſſiſes unto the Juſtice of Aſſiſe. 35. *El. c.* 1. *Lam.* 590.

Preſentment that goods and chattels of one attainted of felony be in others hands, it is to be certified in the Kings Bench, or Exchequer. *Lam.* 590.

Recognizance of an Alehouſe-keeper muſt be certified at the next Quarter Seſſions after the taking, or the Juſtice loſeth five Markes. 5. E. 6. *c.* 25.

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificate of tranſcripts of Records of the Seſſions into the Kings Bench, *vide* Clerks of the Peace.

Certificate of Ryots, *vide* Ryots.

Certificate of Certiorari, *vide* Certiorari.

Certificate of Examinations, *vide* Examinations.

*Vide plus* Recogniſance.

Certiorari is to remove Indictments or other Records to bee fully heard, where the Iuſtices cannot proceed; or bee reverſed, where they have proceeded erroniouſly. *Lam.* 591.

A Certiorari iſſueth out of the Chancery, and the Records are removed thither, and ſent thither by Mittimus to any other Court. *Lam.* 591.

Certiorari to remove matters of the Crown, need not containe the cauſe of the removing. *Lam.* 514.

Certiorari into the Chancery hath in *Cancellaria*, into the Kings Bench *nobis mittatis*. *Dal.* 416. *Cro.* 132. a.

Certiorari may command either the Record it ſelfe, or the tenour of the Record. *Cro.* 131. b. *Lam.* 515. *Dal.* 416.

Certiorari is to bee directed to the Juſtices. *Lam.* 515.

Juſtices of Peace ought upon Certiorari to remove the Record, though the party that brought the Certiorari ſueth not after to have it removed. *Dal.* 408. *Cro.* 132. b. & 133. a. *Lam.* 516.

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken. *Da.* 409. *Cro.* 132. b. 164. b. 197. b. *Lã.* 510.

A certificate of a Certiorari ought not to omit that which did authorize the Juſt. to make the record, neither ought they to certifie more than the Certiorari warranteth them. *Lam.* 516.

If the Certiorari vary from the Record, the Juſtices need not to certifie. *Cro.* 132. b. *Dal.* 416.

A Certiorari is to ſend up the Indictment of *A.* in which others are joyntly indicted, the Juſtices need not make certificate of any but of *A.* onely. *Cro.* 132. a. *Lam.* 517. *Dal.* 416.

A Juſt.

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before him, or a force recorded before him. *Dal.* 416. *Cro.* 132.b.133.b. but not without Certiorari, if hee bee put out. *ibid.*

No bills of Indictment, ryot, forcible entrie, assault, or battery found at the Quarter Sessions, shall be removed by Certiorari, unlesse it be delivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor, with such sureties as the Justices shall allow, to pay within one moneth after the conviction of the indicted, to the prosecutor such costs and dammages as the said Justices shall allow, otherwise the Justices to proceed to tryall, 21. *Ja.* c.8. *Dal.* 219.220.

*Vide plus*, Certificate and Justices of Peace.

## Challenge.

One indicted of felony, may challenge as many as hee will, shewing cause: but without cause hee may not challenge above twenty. 22. *H.*8.*c.*14. *Lam.*554. 28. *H.*8.*c.*1.

### *What shall be a good challenge of a Furor.*

That he was an indictor of him. *Lam.*554.

That he hath no lands to cleere yeerely value of 40. shill. *Lam.*554.

In Cities and Boroughes, that hee hath no goods moveables worth 40. pound. *Lam. ibid.*

That hee is not *Probus & Legalis*, as, if hee be attainted of felony, forgery, perjury, &c. *Lam. ibid.*

## Champertie.

Champertie is when one for hope of having part of the thing in variance, moveth, or cauſeth the ſuit to be moved at his owne coſt, and for it he is to be fined. 33. *E.c.*1. *Lam.*441.

## Chance-medly, *vide* Homicide.

## Chaſtiſement, *vide* Correction.

## Church and Church-yard.

Maliciouſly to ſtrike with a weapon in the Church or Church-yard, or to draw a weapon to that end, is loſſe of one of his eares, or having no eares to be marked on his cheeke with the letter F. 5. *Ed.*6.4. *Lam.*419.

To keep Faire or Market in the Church-yard *ibid. Stat. Wint.*13. *Ed.*1. *c.*6. *Lam.*419.

Conviction of any upon the ſtatute. 5. *Ed.*6. *c.*4. may bee by the Juſtices of Peace at their Quarter Seſſions, by verdict, teſtimony of two, or by confeſſion. 5. *Ed.*6. *c.*4.

Execution of the forfeiture upon the ſtatute of ſtriking in Church-yards, to be awarded by the Juſtices of Peace before the conviction. 5. *E.* 6. *c.*4.

## Church-wardens.

Church-wardens and Conſtables, or one of them, or where none be, the Conſtable of the Hundred muſt once every yeere preſent at the Quarter Seſſions the monethly abſence from Church of Popiſh Recuſants, and the names of every of their children of nine yeeres old and above, abiding with their parents, and as neere as they can the age of their children, and the names of ſuch Recuſants ſervants. 3. *Jac. ca.*4.

*Lam.*

*Lam.*437. penalty 20. ſhill. *Vide* Recuſants.

Churchwardens are to gather for the priſoners. *vide* Priſoners.

Churchwardens and Overſeers of the poore are yeerely to make accompt to two Juſtices, whereof one ought to be of the Quorum, *viz.*

1 Of all ſummes received by them rated or not received.

2 Of ſuch ſtook as they or any of their poore have in their hands. 43. *El. c.* 2.

3 What apprentices they have put out.

4 What poore they have ſet to work or relieved.

5 What poore they have ſuffered to wander and beg.

6 If they have monethly met to take order for the poore.

7 If they have aſſeſſed the inhabitants and occupiers of lands, &c. in their Pariſh, and ſuch as are of ability with indifferencie.

8 If they have endeavoured to levie and gather ſuch aſſeſſements. *Dal.* 96. Defaults in any the premiſſes is 20. ſhill. *ibid.*

"Two ſuch Juſtices may make their warrants "both to the preſent and ſubſequent Church-"wardens and Overſeers to levie all ſums and "arrerages of every one that ſhall refuſe to "contribute according to the aſſeſſement. And "in default of diſtreſſe commit them to the "Gaole till payment be made. *Dal.* 95.

Churchwardens and Overſeers refuſing to make a true accompt to the Juſtices of all ſuch ſummes of money, or denying to pay the arrerages, to be committed to the Gaole without baile till accompt made, and the arrerages paid

paid to the new Overſeers. *Dal.* 96.

Churchwardens and Conſtables yeerely upon Tueſday or Wedneſday in Eaſter weeke, muſt call together the Pariſhioners.

And firſt chooſe Surveyors for the highwayes, *Dal.* 67. 3. *P. & M. cap.* 8.

2 Appoint ſix dayes for that purpoſe, to bee before Midſummer next following. *Dal. ibid.*

3 Give notice of the ſaid ſix dayes openly in the Church the Sunday after Eaſter. *Dal. ibid.*

## Clerk of the Peace.

Clerk of the Peace muſt be preſent at the Seſſions, to read inditements, and inroll the acts of the Seſſions, as alſo to draw Proces. *Lam.* 393.

Clerk of the Peace muſt record Proclamations for the rates of ſervants wages, and inroll the diſcharge of apprentices. 5. *El.* c4. *ibid.*

He muſt keepe the counterpain of the Indenture of armour. 4. *&* 5. *P. & M.* c. 2. Repealed by 1. *Jac.* 25. *circa finem.*

And the bookes of licences given to Badgers and Loaders of corne. 5. *El.* c. 12. *Lam.* 393.

And of thoſe that are licenſed to ſhoot in guns. 2. *Ed.* 6. c. 14.

He muſt certifie into the Kings Bench tranſcripts of inditements, outlawries, attainders, and convictions had before the Juſtices of Peace within the time limited, under the paine of 40. ſhillings 34. *H.* 8 c. 14. *Lam.* 588. *&* 593.

Recogniſance of the Peace is brought in to the *Cuſtos Rotulorum*, & if the partie grieved will not ſue it, the Clerk of the Peace may call up-

on it for the King. *Lam.* 394. 2. *H.* 7. *cap.* 1.

The office of the Clerk of the Peace is in the gift of the *Custos Rotulorum.* 37. *H.* 8. *c.* 1. *Lam.* 394.

What Records the Clerk of the Peace is bound to certifie.

*Vide* Certificate.

The Clerk of the Peace his fees.

*Vide* Fees.

He must record presentments for not comming to Church, and the certificate of not taking the oath of Allegiance. 3. *Jac. cap.* 4. *Lam.* 393.

"Clerk of the Peace is Clerk to the Justi-
"ces, as the Statute. 12. *R.* 2. *cap.* 10. nameth
"him, and not Clerk to the *Custos Rotulorum*
"onely. *Lam.* 394.

"Clerk of the Peace may exercise his place
"by himselfe, or by his deputie, sufficiently in-
"structed in the Law, and admitted by the
"*Custos Rotulorum. Lam. ibid.*

Clerk of a Justice his fees. *vide* Fees.

Clerk of the Crowne, what Records he ought to certifie. *vide* Certificate.

## Clerk of the Market.

Clerk of the Market taking money to dispense with faults, riding with more then six horses, tarrying longer then is necessary, loseth for the first offence 100. shillings, for the second 10. pound, for the third 20. pound. 13. *R.* 2. *c.* 4. Clerk of the Market may take no money for any bills. Hee ought to seale no Bushell

Bushell but once. After the first sealing to take any thing is extortion. *Dal.* 150.

## Clergie and Sanctuarie.

One Justice of Peace may take out of the Sanctuarie him that is abjured thither, being indited of any offence punishable by death, done after he is become a Sanctuarie man, and may commit him to the Gaole in the County where the inditement is found, till he be tried. 22. *H.* 8. *c.* 14.

### *In what offences Clergie is not allowable.*

Breaking a house by day, and taking away any thing to the value of 5. shillings. 39. *El. c.* 15. *Lam.* 564. 565.

Conjurers or Witches, their aiders and counsellers. 5. *El. c.* 16. *Lam.* 564. 1. but *Jac. c.* 12. repealeth. 5. *El. c.* 16.

Receivers or aiders of Seminarie Priests or Jesuits. 27. *El. c.* 2. *Lam.* 563.

Conspiring to burne, take, or raze any Castle or Bulwarke of the Kings. 14. *El. c.* 1.

Rape or ravishment, } 18. *El. c.* 6. *Lam.* 564.
Burglarie, }

Carnally abusing a woman within the age of ten yeeres. *Lam.* 564. 18. *El. c.* 6.

Principall or accessary before the fact of taking away of a maid, widow or wife, that hath lands or substance, &c. 3. *H.* 7. *c.* 2. & 39. *El. c.* 9. *Lam. ibid.*

Buggerie. 5. *El. c.* 17. *Lam.* 564.

Murderer. *Lam. ibid.*

Poysoner of malice prepensed. *Lam. ibid.*

Robbing in day, or nigh a high-way. *Lam. ibid.*

Horse-stealer. *Lam. ibid.*

Church-robber. *Lam. ibid.*

Robbing of a house, any being in it. *Lam.* 564

Robbing of booth or tent, any being in it. *Lam. ibid.*

Commander of pettie-treason. *Lam. ibid.*

Commander of wilfull murder. *Lam. ibid.*

So of robbery in any dwelling-house, in or neere any high-way. *Lam.* 565.

Stabbing one who hath no weapon drawne, nor stroke first, if hee die thereof within sixe moneths. 1. *Jac.* c. 8. *Lam.* 565.

"To burn any dwelling house, or any part "thereof. *Lam. ibid.*

To burne any barne having any corne in it. *Lam.* 565.

Reporting false rumours against the King, devising or writing seditious or slanderous matter against the King. 23 *El.* c. 2.

Souldiers departing without licence of their Captaine. *Lam.* 565.

Souldiers or Mariners, which wander begging. 39 *El.* c. 17.

Or exceed the time of their licence. *ibid.*

Or forge, or use forged licence, knowing it. *ibid.*

The second conviction for forging false deeds. 5. *El.* c. 14. *Lam.* 566.

Privily to take away goods or money above 12. pence from the person of another. 8. *El.* c. 4. *Lam.* 566.

Calling

Calling himſelfe an Egyptian, or keeping them company, contrary to the ſtatutes. 1. & 2. *P. & M. c. 4. 5. El. c. 20. Lam. 566.*

A confined Recuſant refuſeth to abjure the Realme, or will not go, or returneth without licence. 35. *El. c. 1. 2.*

"To acknowledge any fine, recoverie, deed "inrolled, ſtatute, recognisance, bayle, or "judgement, in the name of another not privie thereunto. 21. *Jac. cap. 26. Dal. 276.*

## *To what perſons Clergie is grantable*

To a baſtard.

To bigamus.

## *To whom not grantable.*

Women. *vide* Women.

One that hath had it formerly, except hee be within holy orders. 1. *E. 6. c. 12. Lam. 563.*

## *In what caſes Clergie is allowable.*

Clergie ſhall be allowed in all caſes, ſaving ſuch as are mentioned. 1. *E. 6. c. 12.* or ſpecially ſince that time taken away. *Cro. 118. nu. 33.*

Clergie ſhall bee allowed but once. 4. *H. 7. c. 13. Lam. 563.* except hee bee within orders. *Cro. 118. a. nu. 36.*

A Woman convicted of felonie above 12. pence, and under 10. ſhillings, wherein a man may have his Clergie, ſhall bee burnt in the hand with T. and whipped. 21. *Jac. c. 6.*

Upon an attainder by outlawrie, Parliament, ſtanding mute, challenging peremptorily above twenty, where the ſtatute taketh it

away upon conviction by verdict. *vide Lam.* 567. if Clergie ſhall be denied.

Juſtices of Peace may give Clergy to a felon, if the Ordinary bee preſent; but they cannot fine the Ordinary for his abſence, but muſt reprieve the priſoner. *Lam.* 551. *vide* Ordinary.

If the Enditement doth not directly agree with the words of the ſtatute that taketh away Clergie, the priſoner may have his Clergie. *Lam.* 566.

After conviction and Clergie allowed, and the partie burnt in the hand, he may be indicted of another felonie. *Lam.* 559. 18. *Eliz. cap.* 6.

Where any man hath priviledge of Clergie, as a clerk convict, and alſo in all caſes of felonie wherein the benefit of Clergie is reſtrained, excepted, or taken away by ſtatute (wilfull murder and poyſoning of malice prepenſed, excepted) any Lord of the Parliament, or Peere of the Realme ſitting in Parliament, ſhall, upon his requeſt and prayer, alledging that he is a Lord or Peere of the Realme, though hee cannot read, without burning in the hand, loſſe of inheritance, or corruption of bloud, be adjudged for the firſt time onely as a clerk convict. 1. *Ed.* 6. *c.* 12. but in all other caſes, wherein Clergie is taken away by any ſtatute ſince. 1. *Ed.* 6. he is in the ſame degree as a common perſon. *P. R.* 213. *vide* Ordinary.

## Cloth.

Every Juſtice beyond Trent hath ſome power in ſearching out the deceit of ſtraining or ſtretching

ſtretching thoſe countrey clothes. 39. *El. c.* 20.

Any Juſtice of Peace next unto any Towne corporate or Citie beyond Trent, is to joyne with the Citie or Towne in appointing Overſeers for cloth. *ibid.*

Two Juſtices of Peace muſt appoint yeerely Overſeers of cloth ſold in Townes not being corporate, and to ſweare them to ſee execution of that part of the ſtatute which is yet in force. 3. *E.* 6. *c.* 2. *Lam.* 359. *Dal.* 42.

One commanded by two Juſtices of the Peace to appeare to be made an Overſeer of keeping the ſtatute of clothing, and without reaſonable excuſe refuſing, ſhall forfeit 40. ſhillings, one halfe to the two Juſtices. *Lam. ibid.*

Two Juſtices of Peace may diſpoſe the money riſing of deceitfull cloth ſtretched. 39. *El c.* 20.

Woollen cloth preſented by a retailer thereof to two of the next Juſtices of Peace, as defective againſt this ſtatute, and the ſtatute. 4. & 5. *P. & M. c.* 5. ſhall cauſe the ſame to be cut into three equall parts, whereof one part to the King, one part to the preſenter, and the third part to the Juſtices themſelves. 5. *E.* 6. *c.* 6. *Lam.* 359.

Juſtices of Peace faulty in executing the ſtatute againſt the deceitfull ſtretching of Northren cloth, loſe 5. pound. 39. *El. c.* 20.

Clothier muſt ſet his ſeale of lead to the cloth, to declare the length, to be tryed by water, or be fined. 3. *Ed.* 6. *c.* 2. *Lam.* 469.

Cloth is not to bee ſtretched above a yard and a halfe in length, and halfe a quarter in

breadth, nor to ſhrink more in wetting, on paine of 40. ſhillings. *ibid.*

Brownes, Blewes, Pewks, Tawnies, and Violets, muſt be perfectly boyled, grained, or maddered upon the woad, and ſhot with good cork or orchall, otherwiſe the dyer loſeth 20. ſhillings for every offence. 3 *Ed. 6. c. 2. Lam.* 469.

Wooll for Ruſſets, Marbles, Grayes, Bayes, or for hats or caps, muſt be perfectly woaded, boyled, and maddered, or loſe 20. ſhillings every cloth or wooll for a cloth. *ibid.*

Dying with Brazill, thereby to make a falſe colour, is loſſe of 20. ſhillings a time. 3. *E.* 6. *c.* 2. *Lam.* 469.

Putting flax, chalk, ſtarch, or other deceivable things upon any cloth, except Devonſhire and Cornwall ſtraits, loſeth 40. ſhillings a time. *Lam. ibid.*

Selling cloth by leſſe meaſure then after the true contents by the yard and inch, loſeth 6. ſhillings 8. pence a yard. *ibid.*

Putting to ſale cloth preſſed to be uſed in England, Wales, or Ireland, loſeth the cloth or value. *ibid.*

Refuſing to be ſearchers of cloth, or neglecting to ſearch once a quarrer, loſeth as the offenders. *ibid.*

Interrupting the ſearch of cloth, is loſſe of twenty pound. *ibid.*

Kentiſh cloth above ſix pound price, muſt containe betwixt 28. and 30 yards in length being wet, and 7. quarters broad within the lifts, and being well dreſſed, muſt weigh 76. pound, or loſe 20. ſhillings for want of length

and

and breadth, and so much for wanting of 4. pound of the weight. 5. *Ed.* 6. *c.* 6. *Lam.* 470. See now. 4. *Jac. c.* 2.

Deceit in linnen cloth, whereby it is become worse for good use, is losse of cloth, fine, and imprisonment for a month. 1. *El. c.* 12. *Lam.* 471

Offences against the statute, concerning the stretching of Northerne clothes, to bee presented by the Overseers at the next Quarter Sessions after the offence, and there to bee heard and determined. 39. *El. c.* 20.

Offences of the Justices of Peace in neglecting their duty, by not executing of the statute of deceitfull stretching of Northerne clothes, to be heard and determined by Just. of Assise. 39. *El. c.* 20.

## Commission of the Peace.

The commission of the Peace is determinable at the Pr. pleasure, either by expresse word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriffe. *Lam.* 66. 67. 68. &c.

"If Just. sit by commission and do not adjorne the Sessions, the commission is void. "*Brook Commission.* 12. *Cro.* 188. a.

Commission granted *hac vice tantùm*, is determined after once sitting, if they do not adjourne the same. *Lam.* 71.

A new commission of the Peace *hac vice tantùm*, will determine the old. *Lam.* 68.

A commission of the same kinde in the same limits to other commissioners without word of discharge, is a revocation of the former by implication.

plication. *Cro.* 189. a. *Lam.* 67. *Dal.* 11.

A proper Justice is made within a speciall liberty, without words of prohibition, the Justices of the shire may meddle there. *Lam.* 68. 69.

The making of a new commission is no determination of the old, till it be read or proclaimed at some Session, or in a full Countie, or at the Assises. *Dal.* 11. *Lam.* 69.

The old commission determining by a new, no processe or suit hanging before the old commissioners, is discontinued thereby. *Dalt.* 12. *Cro.* 189. a. *Lam.* 69.

Accession of a higher title taketh not away the authority of a Justice of Peace. *Dal.* 9. *Cro.* 188. a. *Lam.* 70.

A new commission to heare and determine felonies, determineth the old commission of the Peace, but not concerning the Peace. *Lam.* 72. *Brooke Commission.* 8.

A Justice of Peace, in making justification by vertue of his office, needeth not to shew the commission of the Peace, because the keeping thereof belongeth to the *Custos Rotulorum*. *Lam.* 387 388. *Cro.* 120. b *nu.* 13.

"By 17. *R.* 2. *c.* 10. In every commission of "the Peace, two men of law (amongst others) "are to bee assigned, *viz.* to proceede to the "deliverance of felons. *Dal.* 50.

"Two were joynt commissioners, and it is "presented that one onely sate, and fined the "Countrey; and it was held void. But if one "sit, and it is recorded that it is done before "both, it is good: So of Justices of Peace. "*Cro.* 121. a. *nu.* 19. & 189. a. for averment "shall

"shall not be taken against the act of the Ju-
"stices or Commissioners. *Cro.* 189. a.

"A Justice cannot bee made by writ but by
"commission, but may be discharged by writ,
"which is in nature of a *Supersedeas*. *Brooke*
"*Commiss. nu.* 18.

"If the Justices in Eyre, after Proclamati-
"on made, do come into the Countrey, and
"sit there by vertue of their authority, then
"ceaseth the power of the Commissioners of
"Peace. And so likewise, if the Kings Bench
"should remove into the County. *Lam.* 71. *vi-*
"*de Cro.* 188. b. & 189. a. *Brooke Commiss. nu.*
"18. But *Lambert* maketh a *Quære*, for that
"Just. of *Nisi prius* do ordinarily bring a
"Commission of *Oyer* and *Determiner*. *Lam.*
"71. and yet no determination of the Com-
"mission of Peace.

"And *Brooke* Commis. 8. and *Cro.* 188. b. *Va*
"*novel Commission de oier & terminer felonies*
"*determine le ancient Com. del P. quant al Oyer,*
"*&c. felonies, mes nemy quant a Peace. Et*
"*issint vide Commis. determine in pa. & remaine*
"*pur le remnant.*

## Commons.

Commons in forrests and elsewhere, must bee driven yeerely within 15. dayes after Michaelmas by the owner or officers, on paine of 40 shillings a time. 32. *H.* 8. *c.* 13. *Lam.* 483.

*Vide plus* Horses.

## Common Prayer.

If any Minister have refused to use the Com-
mon

mon Prayer, or to minister the Sacraments according to the Book of Common Prayer, in such order and forme as is mentioned in the said Book, or wilfully standing in the same, have used any other forme in open Prayer, or in administration of the Sacraments, or spoken any thing in derogation of the said Booke, or any part thereof, for the first offence it is losse of his spirituall living for a yeere, and imprisonment for six moneths without baile: for the second, deprivation and imprisonment for a yeere: for the third, deprivation and imprisonment all his life. 1. *El. c.* 2. 23. *El. c.* 1. *Lam.* 417.

Any having in play, song, or rhythme, or by any open word spoken in derogation of the Book of Common Prayer, or any thing therein contained, or having caused or maintained any Minister to say any other Common Prayer, or minister Sacraments in other manner, or interrupting any Minister to say open Prayer, or administer the Sacraments according to the said Book, hee loseth 100. Markes, or sixe moneths imprisonment without baile for the first offence: and for the second, 400. Markes, or twelve moneths imprisonment: and for the third, all his goods, and imprisonment for his life. *ibid.*

Concealment, *vide* Jurours.

## Confession.

After a free confession of an indictment, and submission to fine in an action at the parties suit, for the same trespasse, hee shall not plead

plead Not guilty: otherwiſe of a confeſſion *ſub modo*, as when he putteth himſelfe *ſub gratia Regis*. *Lam.*530.

*Quære* whether if he once make a fine, he ſhall not be eſtopped to plead Not guilty. Alſo whether the Juſt. of Peace may drive the party either to an abſolute confeſſion, or to his traverſe. *ibid.*

The voluntary confeſſion of an offender againſt the ſtatute. 1. *Jac. c.* 9. 4. *Jac. c.* 5. before a Juſtice of Peace is a conviction and after confeſſion his oath is ſufficient proofe againſt any other offending at the ſame time. 21. *Jac. c.* 7. *Dal.*26.

## Conjuration.

Conjuration of wicked ſpirits is felonie. 5. *El. c.* 16. *Lam.* 227.

*Vide plus* Witchcraft. 1. *Jac. c.* 12.

## Conſervers of the Peace.

Coroners are conſervers of the Peace, and may in ſome caſes impriſon. *Lam.*395.

Conſtables are conſervers of the Peace within their limits. *Dal.*2. *Lam.*14.

## Conſtables.

Every Conſtable at the Common-law before the ſtatute 3. *Hen.* 7. *c.*3. & 1. & 2. *P.* & *M. c.* 13. might baile one ſuſpected of felonie by obligation, or take ſurety of the Peace by obligation, or commit him to priſon that made an affray, till he found ſureties. *Lam.*15.

Conſtables

Constables or other Officers may lay no hands on two intending to fight, till weapons drawne, or offer of blow. *Lam.* 132.

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them. *Lam.* 132. 133.

Constable or Officer presented at the Sessions for not endeavouring to part an affray, being present, shall deeply be fined. *Lam.* 133.

Not so if he be told of it being absent. *Dal.* 33. *at quære contrà. Cro.* 146. b.

Two fighting in a house, the doores being shut, the Officers may break open the doores to see the peace kept. *Lam* 133.

Constable taking an affrayer must imprison him in the stocks, not in his house; and that till he may provide to carry him to the Gaole, *Lam. ibid.* or to a Justice of Peace. *Lam.* 133. *Dal.* 33. 35.

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray. *Lam.* 134.

Constable or Officer may defend himselfe, and apprehend and imprison the party that shall make an affray upon him. *Lam. ib. Dal.* 35. *Cro.* 147. a.

One Justice of Peace may command that two Constables bee chosen in each Hundred. *Lam.* 186.

*Vide plus* Affray, Arrest, Rogues.

High constables at their pettie Sessions, for an affray made in disturbance of the Court, may imprison the offenders. *Dal.* 3. *Cooke* 11. 43. 44.

Choosing

Chooſing of High-conſtables uſeth to be at the Quarter Seſſions; if out of Seſſions, by the major part of the Juſtices of that diviſion where they dwell, and uſe to be ſworne at the Seſſions, or by warrant from the Seſſions. *Dal.* 46.

*Vide plus* Priſon.

## Conventicles.

Thoſe are ſometimes called Conventicles, wherein many doe impart with others their meaning to kill a man, or to take anothers part in all things. *Lam.* 173.

Champertie alſo, maintenance, conſpiracies, confederacies, and giving of liveries, other then to meniall ſervants and officers, be contained under the word Conventicles. *Lam. ibid.*

Conies *vide* Hunting.

## Corne.

Certificate of one Juſtice of Peace, joyned with the Cuſtomer of the place of unlading and ſelling of corne, graine, or cattell carried by water from one place to another of this Realme, unto the Cuſtomer and Controller of the place where the ſame was imbarked, is ſufficient upon the ſtatute of foreſtalling. 5. *Ed.* 6. *c.* 14. 13. *El. c.* 25.

One having ſufficient corne, buying ſeed, without bringing ſo much as he buyeth, to ell the ſame day as the Market goeth, loſeth double. 5. *Ed.* 6. *c.* 14. *Lam.* 451.

*Vide plus* Tranſportation.

Cutter

Cutter and carriers away of corne. *vide* Hedge-breakers.

## Coroners.

Coroners ought to certifie their inquisitions at the generall Gaole delivery, and not at the Sessions. 1. & 2. *P.* & *M.* 13. *Lam.* 395.

Coroners being parties to the exigents, and Judges of the outlawrie, ought to be present at the Sessions. *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison. *ibid.*

Coroners may bee convicted of offence against the statute of 1. *H.* 8. *c.* 7. by examination of witnesses and touching extortion or not executing their offices, before a Justice of Peace. *Cro.* 130. b. *Lam.* 434.

Coroners fees, *vide* Fees.

## Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unlesse he lay foure acres of his owne free-hold inheritance lying neere to the said cottage, to bee continually manured therewithall so long as that cottage shall be inhabited, forfeiteth ten pounds, except in a Citie, corporate or market Towne, or ancient Borough, or being the dwelling house of workers in minerals, coalmines, quarries of stone or slate, makers of brick, tile, lime, or coale, not being above a mile from the workes, and onely used for the habitation

habitation of ſuch workmen, or for ſailers, or men of manuall occupation, for the making, furniſhing, or victualling of ſhips, and being within a mile of the ſea at the ſide of ſome navigable river; or a cottage for the keeper of forreſts, chace, warren, or parke; or cottage for a common heardſman or ſhepheard of any towne, or wherein any poore, lame, ſick, aged, or impotent perſon ſhall dwell; or hath beene decreed to continue for a dwelling by the Juſtices of Aſſiſe, or of the Peace in open Aſſiſes or Quarter Seſſions. 31. *El. c.* 7. 39. *El. c.* 3. 43. *El. c.* 2. *Lam.* 476. 35. *El. c.* 6. for continuing the cottage 40. ſhil. a moneth.

None to maintaine or uphold any cottage, not having foure acres to it, except as before. *ibid.*

Owner or occupier of a cottage muſt not ſuffer more houſholds then one to d well in a cottage. 31. *El. c.* 7. except it be by order of the Juſtices at the Quarter Seſſions, with leave of the Lord of the waſte, at the charge of the Pariſh, Hundred, or Countie. 39. *El. c.* 3. 43. *El. c.* 2. *Lam.* 611. Offences againſt the ſtatute of cottages and inmates, are to be heard and determined at the Quarter Seſſions. 31. *El. c.* 7. *Lam.* 614. and a Decree may be made at the Quarter Seſſions for continuance of a cottage that hath not foure acres of land. *ibid.*

"A Decree may bee made at the Quarter "Seſſions for the continuance of a cottage that "hath not foure acres of land. And the Juſt. "may enquire, heare and determine of cotta-"ges and inmates againſt the ſtatute of 31. "*Eliz. c.* 7. *Lam.* 614.

Countie.

A Justice of Peace in one County, pursuing a felon into another Countie where he is taken hee shall bee committed to the Gaole of the Countie where he was taken. *Dal.* 297. 298.

## Cozeners and Cozenage.

Any falsly and deceitfully getting into his possession money or goods of other mens, by colour of false privie tokens, or counterfeit letters, and convicted thereof at the Quarter Sessions by examination of witnesses, shall suffer any corporall punishment except death. 33. *H.* 8. *c.* 1. *Cro.* 83. a. 130. b. *Dal.* 48. *Lam.* 443. 535. 569. 609.

Two Justices of Peace, one being of the Quorum, may bind over to the next Session any such suspected person, or may imprison or baile them, untill the next generall Sessions. *Dal.* 48.

One Justice of Peace (as it seemeth) may bind Cheaters to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction. *Dal.* 48.

## Crosses. *vide Agnus Dei.*

## Crosse-bowes and Hand-guns.

Every person may attach an offender against the statute. 33. *H.* 8. *c.* 6. and carry him to the next Justice of Peace in the same Countie. *Dal.* 65.

The Justice upon due consideration may send the offender to the Gaole, till he have paid the penaltie of the statute of 33. *H.* 8. *c.* 6. *sect.* 10. li.

## *The particulars of the said Statute.*

1 None under an 100. pounds *per annum* may shoot in, or keep gun, dag, pistoll, crosse-bow, or stone-bow.

2 No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100. pounds *per annum* may seize the gun, and must breake it, or lose 40. shillings, if hee breake it not within twentie dayes. *Lam.* 296. 80. but may keep the crosse-bow or stone-bow. *Dal.* 65.

3 No person not having an 100. pounds *per annum*, may carry in his journey any gun charged, or bow bent; but onely in time and service of war, or going to the musters.

4 None may shoot in a gun neere to a market Towne, but in defence of his house or person, or at a Butt.

5 The master may not command the servant to shoot, except at a Butt or Bank of earth, or in warre.

## *Exceptions out of the Statute.*

1 Shooting at a Butt or Bank of earth by serving-men, whose masters are inabled by Statute.

2 Inhabitants of market Townes.

3 Dwellers alone, or neere the Sea-side.

4 Gun-makers or Gun-sellers.

5 Those that have placards may shoot according to their placards. *Dal.* 65, 66.

Any under the value of 100. pounds *per annum*,

*num*, licensed to shoot in Crosse-bow or Han
gun, is to present his name to the next Justi
by him to bee presented and recorded at
next Quarter Sessions, or else the Justice
lose 20. shillings. 2. *Ed.* 6. *c.* 14. *Lam.* 301. &
re if this be now in use.

Any licensed at Quarter Sessions to shoot
Hand-gun or birding-piece for Hawkes me
is to shoot onely at fowle not prohibited, a
to be bound in 20. li. 1. *Jac. c.* 27.

Any two Justices of Peace may commit
the Gaole for three moneths any that sho
with gun or bow at any Partridge, Phesa
house-Dove, Mallard, or at such fowle, or
any Hare. 1. *Jac. c.* 27.

"If any person not having lands, &c. of t
"yeerely value of 40. li. or not worth in goo
"200. li. shall use any gun, bow, or crosse-bo
"to kill any Deere or Conies (except su
"person shall have any ground inclosed, n
"for the keeping of any Deere or conies, &
"or bee Keepers or Warreners) any pers
"having in lands 100. li. by yeere in fee or f
"life, may take from such offendor such Gun
"Bowes, or Crosse-bowes, and keep them
"his owne use. 3. *Jac. c.* 13. *Dal.* 65.

Curriers, *vide* Leather.

Customer, *vide* Corne.

## Custos Rotulorum.

*Custos Rotulorum* hath the custodie of t
Records and of the Commission, and ought
see that they be brought to the Sessions. *La*
387.

*Cust*

*Custos Rotulorum* is alwayes a Justice of the
uorum. *Lam.*387.

*Custos. Rotulorum* alone cannot summon a
ssions, seeing that he hath no more authori-
in that behalf then any of his fellowes hath.
*m.*382.

## Cutpurse.

Taking of the goods of another to the valve
12. d. from his person into his owne pos-
ssion, without assault or feare, is felony with-
t clergie. 8. *El.c.*4. *Lam.*270. *Dal.*262. *& Lam.*
2.566.

But it will not amount to felonie unto
ath, unlesse the thing taken be of the value of
elve pence. *Lam.*270. *Dal. Quere.*

The thiefe must have an actuall possession
the thing severed from the person of the
vner. *Lam.*271. *Dal.*262. *Cro.*35.a. *nu.*17.

## Cutting out of tongues.

Cutting out of tongues, and putting out of
es, is felonie, if it be done of set purpose.
*H.4.c.*5. Lam.420.

## Cutting of a Pond head.

Destroying of the head or damme of any
nd, moat, stew, or severall pit wherein fi-
es are put by the owner thereof, or have
ongfully fished in any of the same, to the in-
nt to take away the fish against the owners
ll. 5. *El.c.*21. *Lam.*446. See 3. *Jac.c.*13. he is
suffer imprisonment, and to be bound to his
od behaviour for seven yeeres.

Deere

## Deere and Deere-hayes.

Justices of Peace may not receive an indi
ment for killing a Hart proclaimed, for t
jurisdiction of it belongeth to the Justices
the forreſt. 21. *H.* 7. *c.* 30. *Lam.* 505.

One convicted of unlawfull taking
killing of Deere, muſt pay treble dammag
to the partie, three moneths impriſonment, a
after to remaine there till he put in ſureties
the good behaviour for ſeven yeeres. 5. *El. c.*
3. *Jac. c.* 13. *Lam.* 571.

To ſell, or buy to ſell any Deere, Ha
Partridge, or Pheſant, except houſe Partrid
or Pheaſant, or brought from beyond the ſe
loſeth for every Deer 40. ſhil. every Hare or P
tridge 10. ſhil. and every Pheſant 20. ſhilling
1. *Jac. c.* 27.

*Vide plus* Hunting, and Buckſtalls.

## Demurrer.

If one indicted demurreth upon the evide
ces, the Juſtices ought to record it. *Lam.* 539.

## Deputie.

A Judge cannot make a Deputie. *Lam.* 64.

## Divine Service.

Any above the age of ſixteene yeeres, t
repaireth not faithfully and diligently to
Pariſh Church or Chappell accuſtomed, or (
on ſome reaſonable lett) to ſome uſuall p

here Common Prayer is to bee used upon
ery Sunday and other Holy-dayes, and hath
ot there orderly and soberly abiden during
e time of such Common Prayer, Preaching,
other service of God, loseth 12. pence for
ery offence, to be levied by the Church war-
ns to the use of the poore of the said Parish,
d to bee punished by the censures of the
hurch. 1. *El. c.* 2.

It is lawfull for one Justice of Peace in the
uit, division, or liberty where the offender
elleth, in not comming to Church, accor-
ng to 1. *El. c.* 2. upon proofe of default, by
nfession of the party or oath of witnesse, to
ll the party before him; and, for want of
fficient excuse and proof thereof to the satis-
ction of the said Justice, the said Just. may give
warrant to the Church-warden of the said
rish under his hand and seale to levie twelve
nce for every default by distresse, and in de-
ult thereof to commit the offender to prison
ll payment made. 3. *Jac. c.* 4.

*Vide plus* Recusants, and Sunday.

oggs, *vide* Hunting, and Partridges.

Drovers, *vide* Badgers.

Dyer, *vide* Cloth.

## Drunkennesse.

Any Justice of Peace, upon his owne view,
fession of the partie, or proofe of one wit-
sse upon oath, hath power to convince any
son of drunkennesse. 21. *Jac.* 7.

Any, within six moneths after the offence
committed,

committed, lawfully convicted of drunk-
nesse, loseth 5. shillings, to be paid after co-
viction to the Church-wardens of the Par
where the offence shall be committed; and
fusing and neglecting to pay the same, to be
by warrant from the Just. convicting, levied
his goods; if he be unable, to be set into
stocks six houres, & upon conviction of the
cond offence to be bound with sureties in
pound to his good behaviour. 4. *Jac. c.* 5. and
want of sureties to be sent to the Gaole.

If the officer charged is negligent in levy
or in correcting, he loseth 10. shillings, to
levied and disposed as the penaltie it selfe
*Jac. c.* 5.

Church-wardens to bee accountable to
use of the poore for the penalties by them
ceived upon the statute of drunkennesse. *ibid*

Constables, Church-wardens, and Tithi
men, in their oaths for their office are to sw
to present offences against the statute of dru
kennesse. 4. *Iac.* 5.

Offences against the statute of drunk
nesse to bee inquired after, and presented
fore the Justices of Assise, or Justices of Pe
at their Sessions, and proceeded upon ordin
indictment. *ibid.*

Offenders against the statute of drunk
nesse not to be twice punished for the same
fence. *ibid.*

## Ecclesiasticall causes and perso

ECclesiasticall persons are subject to a
for the Peace, unlesse they be attendan
di

divine service. *Lam.* 93. *Dal.* 166.
*Vide plus* Treason.

## Egges of wild-foule.

Egges of any wild fowle usually eaten, taken from the place where they were layed, or destroyed betwixt the first of March and the last of June, one yeers imprisonment, and lose after a rate for each egg, *viz.* Egs of crane or bustard xx d. butter, heron or shovelack viii d. mallard, teale, and other wild fowl, one penny 25 *H.* 8. *c.* 11. 3. *E.* 6. *c.* 7. *Lam.* 453.

To take away the egges of any hawk out of the woods or ground of any other person, three months imprisonment, and bound to his good behaviour for seven yeers. 5. *El. c.* 21. *Lam.* 446.

To take or cause to be taken upon his owne or other mens grounds, the egges of any falcon, goshawk, lanner, or swan, one yeer and a dayes imprisonment and fine. 11. *H.* 7. *cap.* 17. *Lam. ibid.*

Taker or willing destroyer of egges of Partridge, Phesant, or Swan, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three months, unlesse hee pay to the Church-wardens of the parish in one of the places to the use of the poore 20. shil. 1. *Jac. c.* 27.
*Vide plus* Partridges, Phesants, and Fowlers.

## Egyptians.

One Justice of Peace may within one

moneth after the arrivall seize all the goods of any outlandish persons, calling themselves Egyptians, that shall come into the Realme, or company with them, or disguise themselves like them, and keepe to his owne use the one moiety, accounting in the Exchequer for the other, restoring to them again their goods, that prove by two witnesses that they were craftily or feloniously stolen from them, upon paine of forfeiture of double the value to the prover. 22. H. 8. c. 10. Dal. 49. Lam. 198. 128. 372. 427.

After the moneth it is felony, and then the King shall have the whole. 1. & 2. Ph. & M. 14. Quere, whether the stat. 22. H. 8. be still in force, or altered by the statute of 1. & 2. Ph. & M. c. 14.

Embezeling of records, *vide* Records.

Embracer, *vide* Maintainer.

## Enditements.

"Enditement is the verdict of Jurours that "be charged to enquire of the offence that is "presented to them. *Lam.* 486.

All enditements ought to contain certainty, and therefore five principall things be required in presentments. *Lam.* 487.

1. The name, surname, and addition of the party endited.

2. The yeer, the day, and place in which the offence was done.

3. The name of the person to whom the offence was done.

4. The name and value of the thing with which the offence was committed.

5.

5. The manner of the fact, and the nature of the offence; as the manner of the treason, murder, felony, or trespasse. *Lam.* 487.

Enditement of the accessary to felony, must contain the name of the principall. *Lam.* 488.

Misnamer in an Enditement shall not bee made good by an *alias dictus*. *Lam.* 490.

Where the name of the party offended cannot be knowne, it may be *cujusdam ignoti*, because of the Kings advantage thereby by forfeiture. *Lam.* 494.

Any certainty whereby the day and yeere may be known, is sufficient. *Lam.* 491.

An offence done before midnight, must bee supposed the day before; if after, then the day after. *Lam.* 492.

One striketh one day, whereon hee languisheth, and dieth on another; the Enditement must suppose the last day, on which hee died. *Lam.* 491.

Enditement supposing the fact done a day not come, is not good. *Lam.* 492.

Enditement or presentment for an omission, as *A.* hath not scoured such a sewer, needs not to set down day nor yeer. *Lam.* 492.

Enditement supposing an offence done at two severall times, not good. *Lam.* 492.

## *Certainty of the place.*

If no place be named where the offence was done, or a place bee named, whereas in truth there is no such place, the Enditement is void. 9. *H.* 5. c. 1. 18. *H.* 6. c. 12. *Lam.* 493.

If the stroke or poisoning be in one county,

and the death in another county, the Enditement in the county where the death is shall be good. 2. & 3. *Ed.6.c.24. Lam.* 493.

## *Certainty of the person to whom the offence is done.* Lam.494.

The goods of a Parson of a Church, *Bona Rectoris. Lam.* 468.

The goods of the Church, *Bona parochianorum in custodia Gardianorum.* ib.

The goods of Maior and Comminalty, and the Maior dieth before the Enditement, *bona Communitatis. Quere*, because they have no such name of corporation.

Goods taken in a mans life time, and he maketh executor and dieth, *bona Testatoris.*

Goods taken after his death, *Testatoris in custodia Executorum.*

Goods hanging over a Tomb, *Executoris.* Grave-stone, *bona Ecclesiæ.*

My goods are taken by a trespassor, and taken from him againe, the Enditement shall be *bona* of him that had the last possession. *Lam.* 496.

Of the owner in the keeping of the bailie where they were taken from the Baily. *La.* 49

*Bona capellæ in custodia*, or *bona domus*, *Ecclesiæ tempore vacationis*, is good. *Lam.* ib.

The name of the thing must be comprised. *Lam.* ibid.

*Bona & catalla* in trespasse or felony is no good.

If dead things, it may be *bona & catalla*, expressing the names thereof in certainty.

If living things, it shall not say, *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The value is to bee declared in felony to make it appeare petty larceny; in trespasse to aggravate the fault.

Enditement of things *feræ naturæ*, as Deere, Hares, Partridges, or Pheasants, is not good, unlesse they be taken in a Parke or a Warren that be liberties. *Lam.* 469. 497.

Charters, their value cannot bee esteemed. *ibid.*

It must bee said, *Pretii*, of living things. *Lam.* 497.

So of dead things in the singular number. *ib.*

So of things that go by weight and measure. *Lam.* 497.

So of coin not currant. *ibid.*

It must be said, *ad valentiam*, of dead things in the plurall number, not going by weight and measure. *Lam.* 497.

Coin counterfeited. *ibid.*

Where the number ought to be expressed, as of the taking of Doves in a Dove-house, or young Hawks in a wood, there it must be *pretii* or *ad valentiam*. *Lam.* 497.

Coin currant carrieth his value with it. *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *La.* 498.

## *Nature of the offence.*

Treason must have *Proditorie*.

Murder *Murdravit*, which implieth *ex malitia præcogitata*. *Lam.* 500. *Cro.* 101. a. 103. b.

Burglary, *Burglariter*.

Felony, *felonicè ibid.* so petty larceny, *felonicè.* In rape, *felonicè rapuit. Lam.* 501.

*Furatus* seemeth good without *felonicè.*

In felony, *cepit* alone, or *abduxit*, or *asportavit* is not good, *La.* 501. but *cepit & abduxit.*

In trespasse or felony, the words *contra pacem* must be used. *Lam.* 502.

In forcible entry, *vi & armis* be needlesse. *ib.*

Upon a statute, *contra formam statuti in hujusmodi casu editi & provisi.* ibid.

Where many statutes concern one offence, *contra formam diversorum statutorum.*

## *Where after an acquittall one shall be endited for the same felony.*

Where the first Enditement was void for insufficiency of matter of felony. *Lam.* 556.

Tryall in a wrong County. *ibid.*

Misprision of the party that should bring the action.

Where the first Enditement was as principall, the second Enditement as accessary to the same felony after the fact. *Lam.* 557.

## *Where he shall not be again endited.*

Where the Enditement was good.

Though it were by another name, if hee bee known by both. *Lam.* 555.

Though it suppose the same felony done in another yeer. *Lam.* 556.

Though the Proces was erronious. *ibid.*

Enditement at the Sheriffes Turn lawfully taken, must be taken by the Justices, and by them

them received. 1. E. 4. cap. 2. Lam. 504.

No Enditement can be taken, nor enquiry made, but before two Justices, one to be of the Quorum. Lam. 48.

Enditement upon penall statute, whereof the King is onely to reap the forfeiture, must be within two yeers after the offence.

And where a common person is, it must bee within one yeer, except the statute doe otherwise direct. Lam. 487.

"Constable presents a fault at the Sessions, "which belongeth to his office, which is al- "lowed by the Inquest, it is good: Other- "wise it shall not serve for an Endictment. "Crom. 123. b.

"A man may be indicted for the King upon "any penal statute. Cro. 101. a. nu. 3. 109. a. nu. 3

"If there be two villages in one parish, the "indicted shall bee named of such a village *in* "*parochia de A.* and not of the parish onely. "But if there bee but one village there, the "name of the parish onely, or the name of the "village onely, or of the village in such a pa- "rish is sufficient. And so if there bee divers "hamlets. Cro. 102. a. nu. 16.

"In an Enditement, *Si sit de pecunia numes- "rata, exprimere debet numerum & genus pecu- "niæ: si massa rudis, tum valorem: si formata, "tum qualitatem & pretium: si sit panna, tunc "colorem, pretium, & numerum ulnarum: si ani- "mal, tunc genus, pilum, & pretium; & quòd "felonicè cepit illud contra pacem.* Cro. 103. a. "nu. 35. Stam. 81.

## Enquiry.

Juſtices of Peace may onely enquire, and can proceed no further, as in

1 Certain offences againſt the Supremacie. 23. *El. c.* 1.

2 Treaſons, and miſpriſions of treaſon, made by the 23. *El. c.* 1.

3 Offences againſt the ſtatute of falſe rumours againſt the King. 23. *El. c.* 1.

Enquiry of a forcible entry, *vide* forcible entry.

Enquiry by preſentment, *vide* Preſentment.

Enquiry by Examination, *vide* Examination.

Enquiry by information, *vide* Information.

## Eſcapes.

Conſtable arreſteth one that hath hurt another, and voluntarily ſuffereth him to eſcape, and he that was hurt dieth thereof within a yeere and a day, the Conſtable ſhall make a fine to the value of his goods, but it is no felonie. *Lam.* 134.

To ſuffer a felon wilfully to eſcape, is felony; but a negligent eſcape is onely to be fined. 1. *R.* 3. *c.* 13. *Lam.* 440. *Dal.* 276.

Wilfull eſcape of one arreſted for larceny, man-ſlaughter *per infortunium, ſe defendendo*, is not felony; if the act were not felony at the time of the eſcape. *Lam.* 230. *Dal.* 278. *Crom.* 39. *a. nu.* 5.

Wilfull

Wilfull eſcape by the gaoler or keeper of a felon, is felony in the gaoler, not in the felon; if the eſcape be cauſed by a ſtranger, it is felony. *Lam.*229. *Dal.*278.

Eſcape ſuffered by him that receiveth a known felon, is no felony. *Lam.*230. *Dal.ib.* but ſhall be acceſſary, for that he was not arreſted. *Cro.*39.*a.nu.*4.

*Vide plus* Priſoners.

A priſoner under arreſt onely eſcaping, the eſcape muſt firſt be preſented, before hee that ſuffered the eſcape ſhall anſwer it. *Dal.*278.

A Juſtice ſendeth for a felon out of the gaol and freeth him without baile; it is felony in the Juſtice. *Dal.ibid.*

A Juſtice *pro defectu ſcientiæ* baileth one not bailable, it is but a negligent eſcape. *Cro.*39.*b. nu.*4. *Dal.*279.

Offender upon his examination before a Juſtice confeſſeth the felony, who letteth him goe without commitment or baile; it is a voluntary eſcape, and ſo felony in the Juſtice. *Cro* 39.*a.nu.*7.44.*a. Dal.*304.

A Town not walled muſt anſwer the eſcape of a manſlayer in the day time. 1. *Cro.* 40.*b.nu.* 1. *Dal.*299.

The Hundred muſt anſwer for a man ſlain out of the Towne, and for inſufficiency the County ſhall be charged. *Dal.ibid.*

Gaoler or other officer ſuffereth his priſoner to goe abroad for a time, though the priſoner return as hee was preſcribed, or let his priſoner goe by baile or baſton; it is a negligent eſcape, and fineable. But *quære*, for priſoners ought to be kept *in ſalva & arcta*

*cta cuſtodia. Dal.277. Cro.39.b.nu.5.*

'A Conſtable voluntarily ſuffereth a thief 'to drown himſelf, this is felony in the Con-'ſtable. But if the thiefe (without the aſſent of 'the Conſtable) kill, hang, or drowne 'himſelf, it is a negligent eſcape in the Con-'ſtable. *Dal.276.*

Voluntary eſcape of one arreſted or committed for felony, is felony in the Gaoler; if for treaſon, it is treaſon; if for treſpaſſe, it is treſpaſſe. *Dal.278.*

## Eſcheators.

Eſcheators other then thoſe of a City or Borough, that takes upon him the office, not having lands in the Shire of twenty pounds *per annum*, or for life at leaſt, or that hath ſold or ſet to farme the office, or made a deputy for whom he will not anſwer, and whoſe name he doth not certifie within 20. dayes into the Exchequer, ſhall be fined 40. pound. 12. *E.* 4. *c.*9. *Lam.*429.

Eſcheator taking for execution of any writ in any County above forty ſhillings, or forty ſhillings where the land is not held *in capite*, ſhall be fined forty pound. 23. *H.*6. *c.*17. *Lam.*430.

Eſcheator taking above 15. ſhillings for finding an office not exceeding five pounds a yeere, loſeth forty pounds. 33. *H.* 8. *ca.*22. *Lam.*430.

Eviden-

## Eveſdroppers.

Eveſdroppers which ſhall by night eveſdrop mens houſes, are to be bound to the good behaviour. *Dal.* 191.

## Evidences.

Juſtice of the Peace muſt bind over informers for felony to appeare and give evidence againſt the felon at the next generall Gaole delivery. *Dal.* 49.

Juſtice of Peace muſt bind ſuch as declare any thing materiall to prove the felony, to appeare at the next Gaole delivery, and give evidence. *Dal.* 303.

"If he which giveth evidence of felony to "a Juſt. of Peace againſt another, will not be "bound to give evidence at the Aſſiſes, hee "ſhall be committed, or bound to his good "behaviour. *Cro.* 102. *b. nu.* 26. *Dal.* 35.

Examination taken by a J. of P. in one countie, may be certified into another county, and there read, and given in evidence. *Dal.* 303.

## Eſtreats.

Eſtreats are the extracts of fines, forfeitures, and amerciaments made by the Clerke of the Peace by indentures, the one delivered to the Sheriffe, the other to the Barons of the Exchequer. *Lam.* 581.

Eſtreats of the penalty for ſhooting in guns, are to be recorded and ſent into the Exchequer by

by the Justice that had the examination of the matter. *Lam.*297.

Sheriffe or his minister that shall levie any of the Kings debts, without shewing the party the estreats under the Exchequer seale, shall be fined and pay treble damages to the party. 42.*E.*3.*c.*9. 7.*H.*4.*c.*3. *Lam.*432.

He that estreateth issues of others then such who were chargeable or charged, loseth 5. Markes to the King, and as much to the party. 27.*El.c.*7. *Lam.*432.

## Examination.

Felon brought before a Justice, must be examined before he be committed to prison, and the information of those that bring him must be put in writing within two dayes after, and the party bound to appeare and give evidence at the next Gaole delivery. 2. & 3. *P.* & *M.* *c.*10 *Lam.*212. *Dal.* 49.303.

Before the statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum*: but the offendor shall not be examined upon oath. *Dal.*307.

Circumstances observable in examination of a felon. *Lam.*218. *Dal.*303. *Cro.*98.*a.*

### In what offences conviction shall bee by examination, *vide* the severall offences.

Conviction cannot be by examination onely, but where the statute giveth it, either by referring it to the discretion of the Justices, or specially limiting it. *Lam.*534.

Where

Where the ſtatutes limiteth conviction to be by examination generall, a Juſtice of Peace may examine as well the offenders as witneſſes *Lam.*535.

Where the examination of a Juſtice of Peace is the conviction of the party, it ought to bee upon oath: but when it is but to informe the Jury upon that enditement, it needs not. *ibid. Lam.*536.

Examination of witneſſes is to be taken as well againſt as for the King. *Dal.* 300. but *quære* whether it may be upon oath, which maketh againſt the King.

Confeſſion of an offender before a Juſtice of Peace is not conviction, except he confeſſe the ſame againe upon his triall or arraignment *Dal.*311.

"Juſtice of Peace may examine upon oath "him that informeth againſt a felon: for the "informer may dye before the aſſiſes, and then "the information without oath is not of ſuch "validity. *Dal.*307. *Lam.*215. *Cro.*194.*a.nu.*5.

## Extolling forrain power, *v.* Treaſon.

## Extortion.

Ordinary, Archdeacon, Officiall, Sheriffe, Eſcheator, Coroner, Under-Sheriffe, Bailiffe, Gaoler, or other Officer, that by colour of his office taketh more then his fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing. *Lam.*434 &c.

Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable. *Cro.*57.*b.nu.*2.

The Sheriffe or Gaoler taking any thing of a Con-

a Conſtable for bringing a felon to the Gaole, it is extortion. 4.*E.*3.*c.*10. *Cro.*57.*b.nu.*5.

"The Gaoler takes viii.d. of one in priſon "to let him have liberty, eaſment, or favour, "it is extortion. *Cro.*59.*a.nu.*26.

If the Ordinary or his miniſter take any thing to allow a Schoolmaſter to teach children. 23.*El.c.*1. *Cro.*58.*a.nu.*13.

"If the Ordinary take ought for letters of "adminiſtration or probates of wills, where "the goods amount not above 5.li. wherein "the writer ſhall have vi.d. onely: or if they "be above 5.li. and not 40.li. the Ordinary "2.s.6.d. and the writer 12. and if above 40. "li. the Ordinary 2.s.6.d. and ſcribe 2.s.6.d. "or 1.d. for every 10. lines ten inches long, at "the writers choice. *Cro.*61.*nu.*52.21.*H.*8. "*c.*6. it is extortion, and the Ordinary for-"feiteth 10.li.

*Vide* Fees.

The Marſhall detaining a Priſoner after he is diſcharged by the Court, for any thing due to him but his fees. *Cro. ibid.*

The Ordinary citing a lay perſon to appear in the Spirituall Court, to depoſe there as a witneſſe. *Cro.*59.*b.nu.*35.36.37. & 60.*nu.*44. 46.48. & 231.*a.* & *Fitz. J.P. fol. penul.* it is extortion.

*Vide plus* Fees.

A man preſcribeth to have 4. pence of every one whoſe beaſts are taken in his ground, damage feſant being impounded, and to make amends to him at his will, it is extortion if he take it. *Cro.*58.*b.nu.*18.

To take any thing for a mortuary, contrary

to

to the ſtatute, 21.*H.*8.*c.*6. where the goods come not to twenty Nobles beſides debts, or for married woman or infant, or one that keeps no houſe, or wayfaring man, or any that is not reſident where he died, is extortion. *Cro.* 59.*a.nu.*27. 21.*H.*8.*c.*6.

"To take above 3.s.4.d. for a mortuary, "when the goods amount to 10. markes and "under 30.li. or above 6.ſhillings 8. pence, "where the goods are 30. pounds, and under "40.pounds: or above 10.ſhillings, where the "goods are above 40.pounds, the debts payed, "is extortion. *Cro.*59.*a.nu.*28. 21.*H.*8.*c.*6.

## Faires and Markets.

HEe that keepeth a Faire or Market in a Church-yard, ſhall be fined. *Stat.Wint.*13. *E.*1.*c.*6. *Lam.*419.

Falſe impriſonment, *vide* Arreſt.

Falſe tokens, *vide* Cozeners.

## Fees.

The Sheriffe ſhall have upon arreſt by Bill, Writ, or Warrant, 20. pence, the Bailiffe that maketh the arreſt, 4. pence; the Gaoler, if he be committed, 4.pence; and for the obligation 4.pence, and no more, on pain of 40.pounds. 23.*H.*6.*c.*10. *Cro.*58.*b.nu.*18. 176.*b.nu.*19.

Bailiffes of liberties are to have like fees as the Sheriffes and their miniſters have out of liberties, and like puniſhment for extortion. 27.*H.*8.*c.*24. *Lam.*434. *Cro.ibid.*

Clerk

## *Clerke of the Peace to be fined.*

For taking above 12.d. for inrolling a bargain and ſale of lands not exceeding 40. ſhillings a yeere, or 2.ſhil.6.pence if it doe exceed 40.ſhil.a yeere. 27.*H.*8.*c.*16. and the Juſtice of Peace the like for taking above the ſaid ſums in the ſaid caſes. *Cro.* 59.*a. Lam.*436.

For taking above 12.pence for a recogniſance of one that taketh a rogue into his ſervice for a yeere. 14.*El.c.*5. *Lam.ibid.*

For taking above 2.ſhillings for a licence and recogniſance of a Badger, Drover, Lader, or Kidder, and regiſtring the licence of them both. 5.*El.c.*12.*ibid.*

For taking above 12.pence for a licence and recogniſance to ſhoot Hawks meat. 1.*Jac.c.*27.

Clerke of a Juſtice of Peace to be fined for taking above 12.pence for a recogniſance of an Ale-houſe-keeper. 5.*E.*6.*c.*25. *Lam.*436.

Coroner refuſing to doe his office of one ſlain by miſadventure without fees, loſeth 40. ſhil. 1.*H.*8.*c.*7. *Lam.*434.

Coroner taking above 13. ſhillings 4. pence for doing his office of one ſlain and murdered, of the goods of the ſlayer and murderer; if he have none, of the towne where he was ſlain in the day, and was ſuffered to eſcape. 3.*H.*7. *c.*1. *Lam.ibid.*

## *Maiors to have for ſealing.*

Buſhels and other meaſures, 2 peny.

Weights, *viz.* a hundred weight, 1.peny; half

half a hundred, a halfpeny; leſſe a farthing; and taking above, they loſe 40.ſhil 7.*H.*7.*c.*3. 21.*H.*7.*c.*4. *Lam.*437.

Parſon, Vicar, or Curate taking above foure pence for entring into the Church-booke licence to eat fleſh on fiſh-dayes. 5.*El.c.*5.

Or above 2.pence for regiſtring a Teſtimoniall of any ſervant going from one place to another. 5.*El.c.*4. *Lam.*435.

Ordinary or his ſcribe or regiſter, that hath taken more for the probate of a teſtament or letters of adminiſtration then 6.pence for the ſcribe for writing the probate of the teſtament that ſhall bee brought written in parchment, and 6.pence for the adminiſtration, where the goods be not above 5.pound; if above 5 pound not above 40.pound, then 2.ſhillings 6.pence for the Ordinary, and 12.pence for the ſcribe: if above 40.pound, 2.ſhillings 6. pence for the Ordinary, and 2.ſhil. 6.pence for the ſcribe; or 1.peny for every 10.lines 10. inches in length, at the ſcribes election: and the like for every coppy of a teſtament or inventory, or elſe after the rate of the lines as before, loſeth 10.li. and ſo much as is taken, to the party. 21.*H.*8. *c.*6. *Cro.*61.*a.nu.*52. *Lam.*434.

Eſcheators fees, *vide* Eſcheators.

Receiver, Treaſurer, or Miniſter of the King that taketh of any that hath fee or penſion of the King, other fee then is given by ancient lawes and ſtatutes, *viz.* 4.pence for payment of every ſumme, forfeiteth 6. ſhillings 8. pence. 33.*H.*8.*c.*39. 7.*E.*6.*c.*1. *Cro.*58.*a nu.*9.

Taking above 4.pence for impounding one diſtreſſe, loſeth 5.pound to the party grieved, beſides

beſides ſuch mony as hee ſhall take above the ſumme of foure pence. 1. & 2. P. & M. c. 12. ib.

"A man attainted of treſpaſſe commeth in "*gratis*, and findeth ſurety for his fine, hee "ſhall pay no fees to the Sheriffe or Gaoler, "*Cro.* 176. *a.nu.* 6. ſo of him that is indicted "before Juſt. of Peace, and is committed till "he pay his fine.

"The officer is to take nothing of him a-"gainſt whom proceſſe is granted to come be-"fore a Juſt. of Peace to finde ſurety for the "peace. *Cro.* 176. *a.nu.* 8.

Fees for a Juſt. of Peace are (*ut dicitur*) *Cro.* 176. *a.nu.* 9.

"For a recognizance for the peace, 2. ſhil.

"For a recog. to baile a priſoner, 2. ſhil.

"For a *Superſedeas* of the peace, 2. ſhil.

"For a warrant of the Peace under ſeal, 2. ſ.

"For releaſe of the peace, 2. ſhil.

"For a warrant which concerneth not the "peace, 4. pence.

"For the recogniſance of an Alehouſe-"keeper, 12. pence. *Cro. nu.* 10. 5. *E.* 6. *c.* 25.

"*Vide plus Dal.* 385.

## Felo de ſe.

A man that kills himſelfe, either with a meditated hatred againſt his owne life, or out of diſtraction or other humour, is *felo de ſe*, and forfeiteth his goods reall and perſonall chattels to the King, and debts due upon ſpecialty, and alſo upon ſimple contract, or without ſpecialty. *Coo.* 4. 95. *a. Dal.* 240.

"Two fighting, the one of them falleth on

"the

« the ground, and draweth his knife, the other « falling upon him, doth also fall on the knife « and is slaine, he is in a sort *felo de se*. *Dal.* « 274. *Cro.* 28. *a. m.* 7. *Pax reg.* 122. *b. Sta.* 16. *a.*

An infant, or *non compos mentis*, killing himself, doth not forfeit, but a lunatick doth. *Dal. ibid. Lam.* 247.

All his goods shalbe forfeited which he had at the time of the blow given, but not till his death be presented and found of record. *Dal. ib.*

He forfeiteth no lands, nor is his blood corrupted. *Dal. ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body, as being cast into the sea, or secretly buried, the Justices of P. may inquire thereof, and a presentment before them intituleth the King to his goods. *Dal. ibid. Coo.* 5. 110. *b.*

## Felonie.

Felonies are either { by the Common law, / Statute law.

By the Common law, all kind of homicide not warranted, Burglary, Theft, Burning of houses, Rescous, and Escapes. *Da.* 238.

*Vide* their severall titles.

## Felonies by statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realme, or any sworn to the Kings Councell, or the Steward, Treasurer, or Controller of the Kings houshold. 3. *H.* 7. *c.* 14. *Dal.* 275.

Breaking

Breaking of priſon by one being therein for felony, or a priſoner for felony. *1.E.2.de priſonam frangent. Dal. ibid.*

And if he eſcape going to the Gaole. *Cromp. 49.b.*

If under arreſt for felony or ſuſpicion, whether in the Gaole or out, it is breaking of priſon though he be not indicted of felony. *Cro. 38.a.nu. 1.P.R.147.*

A ſtranger breaketh the priſon, or openeth the ſtockes, or makes reſcous of one impriſoned or arreſted for felony, who eſcapeth, it is felony in them both. *Dal.275. Cro.38.a.nu.1.*

*Quære*, if a ſtranger diſturbe the arreſting of a felon. *Dalt. ibid. Fitz. Juſt. P. fol. 114. Lam.229*

Reſcuing a Priſoner going to execution, is felony. *Dal. ibid.*

Gaoler, Conſtable, or other having a priſoner under arreſt for felony, voluntarily ſuffereth him to eſcape, it is felony onely in him that ſuffereth the eſcape. *Dal. ibid. Lam.229.*

If the priſoner eſcape by negligence of his keeper, it is felony onely in the priſoner. *Dal. ibid.*

Eſcape before arreſt is no felony, but the officer may be endited and fined. *Dal.276. Lam. 230. Cro.39.a.nu.5.*

Buggery with mankind or beaſt.

Burning of houſes or ſtacks of corn.

Congregations and confederacies holden by Maſons.

Cutting out of tongues, or putting out eyes.

Cutting Powdike, or bank in Marſh-land.

Conjuration or invocation of evill ſpirits. *1.Jac.12.* Conſulta-

Conſultation with an evill ſpirit, &c. *Vide* 1. *Jac.* 12.

Embezeling the Kings ordnance, armour, &c. to the value of 20. ſhillings, though at ſeverall times. 31. *El.* 4. *Dal.* 287.

Embezeling of any record, writ, &c. 8. *H.* 6. *c.* 12. *Dal. ibid.*
Raſing of a record is fineable at the Kings will, &c. 8. *R.* 2. *c.* 4.
*These two belong not to Juſtices of the P.*

Forging of evidences, &c. the ſecond time. 5. *El. c.* 14.

Gaoler enforcing his Priſoner to become an approver.

Hawks embezelled, and not brought to the Sheriffe.

Hawkes concealed, or ſtollen from the owner.

Hunting Deere or Conies in the night, and upon examination concealing the offence, or diſobeying the arreſt for ſuch offence.

Taking a tame beaſt or other thing in a park by way of robbery.

Marrying a ſecond husband or wife, the firſt living. 1. *Jac. c.* 11.

Multiplication of gold or ſilver.

Infected with the plague, going into company contrary to command. 1. *Jac. c.* 31.

Wilfull poyſoning, if the party dye within a yeere and a day after.

To receive, relieve, or maintaine Popiſh Prieſts.

Recuſants refuſing to abjure, or return after departure.

Purveyour taking for the Kings houſe any

any thing above twelve pence.

1 Without warrant under the great seale. *Vide Dal.284.*

2 Buying any thing in any other manner then is contained in their warrant.

3 Taking any carriage in any other manner then is comprised in their commission.

4 Shall carry away any thing against the owners will, without paying or agreeing for the same.

5 Shall not make his provision and purveyance by the testimony and apprizement of the Constable and foure neighbours sworn, if the purveyour and owner cannot agree, and shall not deliver Tales or Indentures sealed with his seale touching the same.

6 Or shall take more victuals or carriages then he shall deliver unto the Kings house.

7 Or take sheep in wooll betwixt Easter and Midsummer at small prices, or more then be sufficient for the Kings house, and carry them to his owne, and sheare them.

In every of these cases it seemeth to bee felony in such purveyour, their deputy and servants.

A Chater of any subject or officer taking any thing against the owners consent, and not paying presently. 36. *E.3.c.6. 7.R.2 c.8. 23.H. 6.c.14. Dal.287. Cro.48.a.*

Incorrigible Rogues banished the Realme, and returning without licence. 39. *El.c.4.*

Robbing house, barne, or stable in the day, to the value of 5. shillings, though no body be within. 39 *El.c* 15. no clergy.

Robbing any house by day or by night, any person

person being therein, and thereby put in fear. *Ibid.* without clergy.

Robbing any person in part of his dwelling, any of his household being within, *ibid.* without clergy.

To rob any Booth in Faire or Market, any person thereto belonging being within sleeping or waking, *ibid.* sans clergy.

Servant (other then an apprentice) to whom money, goods, or chattels, &c. are delivered to keep by master or mistresse to the value of forty shillings, do go away therewith, or convert them to his owne use, to the intent to steal the same, or defraud his master or mistresse. 21. *H.* 8. *c.* 7. 5. *El. c.* 13. *Dal.* 264.

Souldiers going out of the Realm to serve a forrain Prince, not having first taken the oath of allegeance. 3. *Jac. c.* 4. *Dal.* 284.

A Gentleman, or of higher degree, Captain, or other Officer in Camp, going to serve a forrainer before he is bound with 2. surcties to the King, not to be reconciled to the Pope, &c. nor to make nor consent to any conspiracy against the King. 3. *Jac. c.* 4.

Souldiers having taken presse-money, not going with their Captain; or being in service, departing without licence. 18. *H.* 6. *c.* 19. *Cook* 16. 3. 4. *H.* 7. *c.* 2. 3. *H.* 8. *c.* 5.

Mariners and Gunners taking presse-money to serve the King, and departing without licence. 5. *El. c.* 5.

Souldiers and Mariners which settle not themselves to some good course of life, but wander idely. 39. *El. c.* 17.

Souldiers and Mariners landing, and not having

having a Teſtimoniall from ſome Juſtice Peace neere their landing. *ibid.*

2 Or exceeding the time limited wilfull fourteen dayes. *Vide* 43. *El. c.* 3. that they ſha be puniſhed as Rogues.

3 Or forge, or have forged Teſtimoniall knowing it to be forged.

4 Or being retained in ſervice after arra ment, doth depart within the yeer without Maſters licence. 39. *El. c.* 17.

"In all theſe former caſes, ſee the ſtat. 43. "*c.* 3. That Souldiers and Mariners begging "counterfeiting a Certificate from their C "ptain, &c. ſhall be adjudged and puniſhed "Rogues. *Dal.* 285. *Vide* Rogues.

Tranſporting live ſheep, the ſecond offe is felony. 8. *El. c.* 3.

Raviſhing a woman with force, though co ſenting afterward. 13. *E.* 1. 3. *W.* 2. 18. *El.*

All abettors in rape are principals. *Dal.* 2 *Cro.* 47. *b.*

To raviſh a harlot againſt her will, is ra *ibid.*

To take any maid, widow, or wife hav lands or goods, or being heire apparent to anceſtor, againſt her will, unlawfully.

And to receive any ſo taken knowing th of, or to procure and abett the ſame. 3. *H.* 7. *Dal. Cro. ibid.*

To abuſe a woman carnally under 10. y of age. 18. *El. c.* 6.

To take a mans wife with her husba goods againſt her will, or her husbands. 13 1. 34. *Weſt.* 2. *Stamf.* 94. *Dal.* 290. *Cro.* 35. *a.*

Felo

Feloniously to take goods out of any Church or Chappell. *Law.* 420.

A woman delivered of a baſtard, doth by drowning or ſecret burying thereof by herſelf or other conceale the death thereof, ſo that it may not come to light, if it were dead born or live, it is murder in the mother, except ſhee can prove by one witneſſe that the childe was borne dead. 21. *Jac. c.* 27. *Dal.* 290.

To acknowledge any fine, recovery, deed inrolled, ſtatute, recogniſance, baile, or judgment in the name of another not privie to the ſame, is felony without clergie. 21. *Jac. c.* 26. *Dal.* 284.

"Felony done in one Kings dayes may bee tryed in another Kings time. *Cro.* 37. a. *nu.* 31. *Dal.* 297.

"A felony is done in one county, and the felon flyeth into another, and is there taken, hee is to be committed to the gaole of the county where he was taken, and be removed by writ to the gaole of the county where the felony was done. *Dal.* 298.

"For ſtealing goods in one county, and carrying them into another county, the felon may be endicted in either county. But for robbery the endictment muſt be in the county where the robbery was. *Dal.* 298. *Bro. cor.* 140. *Indict.* 26.

"One ſtealeth ſtollen goods, the owner may endict the firſt or the ſecond. *Dal.* 298.

"Any man may proſecute for ſtealing *bona notabilia*. *Dal. ibid.*

"If the owner will not charge the felon, any other (after proclamation made, *If any will informe for the King*) may ſafely informe,

" indict and give evidence. *Dal.*298. But
" A Justice of Peace hearing of any that ca
" informe, may send for him, examine him,
" and bind him to give evidence. *Dal.*298.

Felony of his own goods, *vide* Theft
Ferrets, *vide* Hunting.

## Fewell.

One Justice of Peace may set on the Pillo
ry, in the next Market towne to the place o
offence, any person convicted of breaking th
assise of fewell, and not able to pay the forfe
ture, there to be at eleven of the clocke on th
Market day, with a billet or faggot bound t
some part of his body. *Quære*, whether o
Justice may convict him alone. 7. *E.6. cap.*
*Lam.196.*

## Fines.

Fine taketh his name of the Latine *finis*, f
that it maketh an end with the King for t
imprisonment laid upon the offender, for t
offence committed against him. *Lam.*574.

Upon payment of the fine, or upon pledg
found by a recognisance to pay it, the offend
ought to be delivered. *Lam.ibid.*

The assessement of fine belongeth to the J
stices before whom the conviction is lawfu
had. *Lam.*576.

Stander by when a man was slaine, is to
imprisoned till hee make his fine, becau
hee did not his best to attach the murder

ſo of other felonies. *Lam.*132.289.

Fine upon a forcible entry or detainer upon offenders convicted of record by a Juſtice of Peace, and by him committed to the gaole, ſhall be aſſeſſed by the ſame Juſtice, and upon bonds with ſureties he may enlarge them. *Tamen quere:* and eſtreat it, and ſend it into the Exchequer: but it is beſt to leave the fine to the diſcretion of the Kings Bench. *Lam.*158.159. *Dal.*58.

Upon conviction for offences, where no fine certaine is limited, no fine can be aſſeſſed till the offender be brought in by *Capias pro fine*, or otherwiſe, unleſſe it bee for Ale-houſes and High-wayes. *Lam.*573.

Where any ſtatute ſpeaketh of fine and ranſome, the ranſome ought to bee at leaſt treble the fine. *Lam.*575. the opinion of Sir *Edward Cooke* is, that fine and ranſome are all one, *vid.* well diſcuſſed. *Cok. inſtitut.*127.a.

Where the ſtatute maketh an offence fineable in generall termes, or at the Kings will, the Juſtices of Peace before whom the conviction is had, may aſſeſſe the fine, which is fitteſt to be done in open Seſſions. *Lam.*576.

Fines upon the ſtatute of tyles, of croſſebowes, and of alehouſes, by expreſſe words of the ſtatute, may not be altered. *Lam.*578.

Fines muſt be reaſonable and juſt, according to the quality of the offence. 34. *Ed.*3. *cap.*1. *Lam.*577.

After one is taken by a *Capias pro fine*, the Juſtices of Peace are to aſſeſſe the fine by their diſcretion, and to deliver the party. *Lamb.* 74.

Fines of Rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler, *vide* Aſſiſe of bread.

## Fiſh.

Stealers of fiſh out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three moneths impriſonment, and the party grieved his treble dammages. 5. *El.* 21. *Lam.* 446. See 3. *Jac.* 13.

If any caſt nets into waters, by which the fi of fiſh may be taken, or take Salmons betwi the nativity of Mary and S. Martin, or youn Salmons betwixt the midſt of April and Mi ſummer, one Juſtice may puniſh them for t firſt offence, by burning their nets and engin for the ſecond, by 3. moneths impriſonmen for the third, by one yeers impriſonment; a for any of them, by fine at the diſcretion of t Juſtice. 17. *R.* 2. *c.* 9. *Lam.* 190. 454. 576.

Forfeitures upon the ſtat. 3. *Jac. c.* 12. wh any offence is committed, in deſtroying t ſpawn or brood of ſea-fiſh, may be levied diſtreſſe and ſale of the offenders goods, warrant from one Juſtice of Peace to the Co ſtables or Church-wardens. 3. *Jac. ca.* 12. forfeiture given is 10. ſhillings, the one mo to the poore, &c. the other to the perſon th ſhall ſue for the ſame.

He that ſhall by preaching, teaching, w ting, or ſhall notifie upon open ſpeech, th the eating of fiſh, or forbearing of fleſh upo any dayes now uſually obſerved for fiſh-day

is for neceſſity of ſalvation of ſoules, or is the ſervice of God, otherwiſe then other publike lawes be, ſhall be puniſhed as ſpreaders of falſe newes are and ought, &c. 5. *El. c.* 5. 1. *Jac. c.* 29 *Lam.* 442.

## Fiſh-dayes.

Any, except aged, ſick, with child, or licenſed, eating fleſh in Lent, or on fiſh-dayes, loſeth 20. ſhil. and one moneths impriſonment. 5. *El. c.* 5. 27. *El. c.* 11. *Lamb.* 458. 35. *Eliſ. cap.* 7. 1. *Jac. c.* 29.

Taverners, Inne-keepers, common Tabling-houſe, Tipler, or Alehouſe-keeper, offending againſt the ſtatutes, 5. *El. c.* 5. & 1. *Jac. c.* 29. for killing, dreſſing, and eating of fleſh, is to loſe the fleſh, and the penalty of 5. *El. c.* 5. which is 3. pounds. 1. *Jac.* 29. *Lam.* 458.

Forfeiture upon the ſtatute, 1. *Jac. c.* 29. for eating of fleſh, except ſuch as be taken by the Juſtice of Peace, Maiors, Bailiffes, head-officers, or Conſtables, are to be equally divided betwixt the King and the Informer. 1. *Jac. c.* 29. expired.

Licence granted to ſick perſons to eat fleſh on fiſh-dayes, ſhall be no warrant for them to eat beefe, mutton, veale, pork, or bacon. 1. *Jac. c.* 29. expired.

Butcher or other, though licenſed, killing in Lent to ſell any oxe, beef, hog, calfe, or mutton, except three dayes next before Eaſter, or oxen, or beefe for victualing of ſhips, loſeth the meat or value. 1. *Jac. c.* 29. expired.

Juſtice of Peace, or head-officer of corpora-

tions, or Constables of Towns, may in Lent search Victuallers houses suspected of dressing flesh; and finding any flesh, beefe, hog, calfe, or mutton, may seise on it, and give it to the poore. 1. *Jac. c.* 29. EXP.

"Bish. of the Dioceſſe, Parson, Vicar, or Curate of the Parish where one is sicke, may "grant licence for eating of flesh, which must "be signed with the hand of the Bish. Parson, "&c. and endure no longer then the sickness. "5. *El. ca.* 5.

"Any person granting licence without need "loseth five marks, and the licence is void. *ib.*

Flesh, *vide* Fish-dayes.

## Flaxe.

Forfeiture due to the Informer upon the statute of flaxe and hempe to be levied by what Proces the Justice will. 24. *H.* 8. *c.* 4. *Lam.* 584. but 24. *H.* 8. *c.* 4. is repealed by 35. *El. c.* 7.

Flesh, *vide* Fish-daies.
Forrain power, *vide* Treason.
Forrain plea, *vide* Tryall.

## Force.

Every trespasse in judgment of law is a force, and the action may be, *quare vi & armis*. *Dal.* 199. *Lam.* 141.

That which is properly force, is either { *Manu forti*, or *Multitudine*.

*Manu forti*, is violence offered to the person of

of another by deed or word. *Dal.*199.

By deed, as actuall violence, or to be furnished with offensive weapons not usually born. *ibid.*

Any thing which a man taketh in his hand to throw it at another, may be said to bee armour. *Cro.*74.b.

*Multitudine*, where there be two or three in a company, or more. *Dal.*199.

## *Who shall be said to enter with force.*

Forcible entry must be an actuall entry. *Dal.* 199.

If one or more come weaponed, especially with weapons unusually worne, and violently enter into an house or land. *Lam.*142. *Dal.*199.

Much more being entred, if he or they offer violence, or feare of harme to any in possession, or drive any out of possession. *Dal.ibid. Lam.*142.

Many come to do a force, and one only useth force, all are guilty. *Dal.*204. *Lam.*143.

To enter peaceably, and forcibly to put out another. *Dal ibid. Lam.ibid.*

To enter peaceably, and after to offer violence, threatnings, or feare of harme to one in possession, with intent to get him out, though he get him not out. *Dal ibid. Lam.ibid.*

Entring peaceably, and saying they will hold, although they dye for it. *Lam.*146. *Dal.* 200.

To enter peaceably with weapons (not usually born by them) to house open or grounds. *Dal.ibid.*

The Master entring with moe servants then usuall. *ibid.*

A trespasse made *manu forti*, or *cum multitudine*, though it be but to cut or take away another mans corn, grasse, or goods, or fell or crop wood, or to doe any other trespasse, though the party be not put out of possession, yet it seemeth forcible entry punishable by the statutes: but otherwise if the entry be peaceable, yet it is disseising with force. *Lam.* 143. *Dal.* 200.

To enter peaceably, and after entry, by force or violence to cut corne, grasse, wood, &c. or carry away anothers goods, is force. *Dalton* 200. *Cro.* 70. a.

To distraine for rent due or not due with force, doth countervaile a force. *Dal. ibid. Lam.* 144.

Divers enter where the entry is not lawfull, and all save one demeane themselves peaceably, and one only entreth with force, or after entry useth force, it is forcible entry in all. *Cro.* 22. a. *nu.* 15. 124. b. *nu.* 43. 34. b. *nu.* 15. *Lam.* 143. *Dal.* 217.

*In all these cases of trespasse, onely the Justices of Peace may, as it seemeth, remove the force, and upon view imprison and fine.* Dal. 200. 202. *and upon view the Justice may instantly commit the offendor, and record the force.* Cok. l. 8. f. 120.

## *Forcible entry by words.*

To enter peaceably, and then to offer by threatning to kill the disseisee if hee re-enter. *Dal.* 200.

Who

## *What is not force.*

To enter by faire meanes, his entry being lawfull, and perſwade them within to come out, and the doore being open, or ſhut by the latch, to enter without multitude, or offenſive weapons, or other violence. *Dal.*201.

To enter peaceably and quietly, getting other out, and quietly to hold it. *Dal.ibid.*

To enter peaceably into a houſe, and finding armour or weapons, not to remove them. *Lam.* 145.

To take a man being out of his houſe, and impriſon him, and in the mean time to ſend another peaceably to enter, is no force. *Lam.* 146. *Dal.*201.

Hee that onely agreeth to a forcible entry made to his uſe, is onely a diſſeiſor. *Dal.*204.

## *What ſhall be ſaid a forcible detainer.*

Forcible detainer is of lands and tenements not of the perſon. *Lam.*146. *Dal.*201.

If entry be peaceable, and the detainer forcible, it is puniſhable, except quiet poſſeſſion had been had for three yeares. *Dal.ibid.*

To deny a Juſtice of Peace to enter (upon ſuppoſall of a forcible detainer) is forcible detainer, though it be but by one perſon, and no weapons ſhewed. *Dal.ibid. P.R.*41. *Lam.*145. *Cro.*70. *b.mu.*40.

If the Juſtice enter, and findeth any armed, or any armour or unuſuall weapons lying by them, or find more then the ordinary family. *Lam.*145. *Dal.*202.

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assaile the enterers. *Lam.*145. *Dal.*202.

The disseiser forestalleth the way of the disseised with force, so that hee dare not come neere. *Dal.*202. *Lam.*145. *Cro* 69.b.*nu.*26.

To keep cattell by force where hee hath no common, the Justice may imprison and fine, but not make restitution. *Dal.ibid. Cro.ibid. P.R.*39.

To detaine a house morgaged by force from the morgager is forcible detainer. *Dal.*203.

## *What is forcible detainer by word.*

To enter peaceably, and after to threaten to kill the disseised if hee come againe. *Dal.*202. *Lam.*146.

It seemeth to amount to a forcible detainer to threaten to maime, beat, or do bodily hurt to the disseised if he come again, *Dal.ib.* for the death may ensue upon such beating or hurt.

## *What is not forcible detainer.*

One entreth peaceably into a house, and finding armour or weapons, doth not remove them. *Lam.*145.

## *What is not forcible detainer by word.*

To threaten to burn his house or spoile his goods, to deny to open the doors, to deny to go out. *Dal.*202.

*What*

## What is forcible detainer of rent.

The tenant reſiſteth ſo forcibly, that the owner cannot diſtrain for his rent, nor uſe his common of paſture. *Dal.*203. *Lam.*146. *Cro.* 70.a.*nu.*27.*P.R.*39.

The tenant foreſtalleth the way by force and armes, or threatneth him that hath the rent or common, that he dareth not diſtrain or uſe his common. *ibid.*

The tenant maketh reſcous of the diſtreſſe with force and armes. *Dalt. ibid. Cro.*69.a. *nu.*26.

*In theſe caſes of rent or common, the Juſtice may remove the force, record it upon view, impriſon and fine, but can award no reſtitution.* Dal. ibid.

## What perſons may make a force.

One alone, if it be with offenſive weapons or turbulent behaviour, to the affray of others. *Dal.*203. *Lam.*143.

An infant of the age of 18. *Dal.ib. Cro.*69.a. and ſo he may though he be under 18.

A feme covert may by her owne act make a forcible entry or detainer, and ſhe may be impriſoned and fined, but the fine cannot be levied on the husband. *Dal.*204.

## Conſent.

If one command or counſell others to a force, and be preſent, though he doe nothing, he

he is a principall, *Dal.*204. but if absent, a disseisee.

Divers enter, one only committeth force, all are guilty, *ibid. Cro.* 22.a. *nu.*15. 24.b. *nu.*43. 34.b. *nu.*15. *Lam.*143.

## *Who cannot be put out.*

The King cannot be disseised, therefore an enditement upon the statute 8.*H.*6. for the King is not good, neither can the Kings Farmer preferre a Bill of Enditement upon the said statute, but must have an Information in the Exchequer. *Dal.*205. *Cro.*69.a.*nu.*13.

## *Where one may hold with force.*

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3. yeeres together. *Lam.*139. *Dal.* 210,211. and may hire strangers to maintain his possession, & have his company in armour. *Dal.ibid. Cro.*71.a.b. but he may not resist the Justice of Peace that commeth to view.

Upon enditement of forcible holding the plea of three yeers lawfull possession next before, avoideth imprisonment, fine, and restitution. *Dal.*211.

But it holdeth not,

1. If the entry were forcible, though the holding peaceable.

2. If the holding were forcible, though the entry peaceable.

3. If a disseisee have continued peaceably 3 yeers. *Quere* if hee shall be helped by 8.*H.*6.

or 31. *Eliz. cap.* 11. If a disseiser have forcibly continued his possession twenty yeeres, he may be endited upon 8. *Hen.* 6. and the Justice may make restitution. 14. *H.* 7. *c.* 28. *Lam.* 160. *Dal.* 211. *Cro.* 71. *a. nu.* 49.

4. If the possession of three yeeres have been interrupted. *Cro.* 71. *a. Lam.* 162. *Dal.* 211.

A disseiser quietly holdeth three yeeres, and after the disseisee entreth or maketh claime, the disseiser re-entring cannot hold with force, for hee is in upon a new disseising. *Dalton* 212.

A lawfull possessor, after twenty yeers possession is outed, hee can neither re-enter, nor hold with force. *ibid.*

## *What force is lawfull.*

Force used by the Kings Officers for the due execution or advancement of justice, or of the judgement of the law: as,

1. To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2. A Sheriffe or his Officers to apprehend by vertue of the Kings Writ.

3. A Justice removing unlawfull entries, or holding of possessions, and repressing riotters. *Dal.* 208.

4. Justice, Sheriffe, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturb or break the Peace.

5. It is lawfull by force to break open doores, to arrest offenders within, if the Officer

Officer cannot otherwise enter.

*Note, that the Officer is first to signifie the cause of his comming, before hee attempt to break open the doores.* Dal.209.as,

First, for treason, felony, or suspicion of felony. *Cro.*170.b.

2. Where one hath dangerously wounded another. *Cro.*131.a.

3. An affray being in the house. *Cro.*146.

4. Upon a forcible entry or detainer found by inquisition. *Dal.*208.

5. Upon a *capias utlagatum* in personall action, or *capias pro fine* directed to the Sheriff. *Cro.*170.b

6. Upon Warrant or Proces for attaching a Popish Recusant excommunicate. 3. *Jac.c.*4.

7. Upon a Warrant for the peace or good behaviour. *Dal.*209.333. but *Cro.*176.b. maketh a Quære.

8. Upon recovery in a reall action, or *ejectione firmæ*, but not to execute the Kings Proces upon the body or goods of any person at the suit of any subject. *Dal.*209.

9. In cases where the King is party. *ibid.*

## *Forcible defence is lawfull*

1. For every man to keep his house to himselfe, his family and goods, as his castle, as well for defence against injury, as for his repose. *Vide plus* Houses. *Dal.*209.

2. In defence of husband, wife, father, mother, or master. *Dal.*184.

3. Father or mother in defence of the child within age. *Dal. ibid.*

4. In defence of my goods or my land. *Dal. ibid.*

"An

"5. An heire or feoffee may keep poſſeſſion "by force, if they and their anceſtors or feoffors, or they whoſe eſtate they have, have "been in peaceable poſſeſſion three yeeres. *Dal.*210.

In theſe caſes he that attempteth may be diſturbed; and if he attempt to aſſault or lame me, I may beat him againe, as well in defence of my perſon as poſſeſſions, but not kill him. *Dal.ibid.*

"If one will take my goods, I muſt firſt lay "my hands on him, and diſturb him; if hee "will not deſiſt, I may beat him. *Dal.*185.

## *what Juſtices of Peace are to doe in forcible entry or detainer.*

Every Juſtice upon complaint or notice given, ought at the coſt of the party grieved to do execution: *viz.*

1. He muſt go to the place. *Dal.*57. *Lam.*147

2. Take ſufficient power of the County, or of the Towne, and the Sheriffe alſo (if need be) as well to arreſt offenders, as alſo for removing of the force, and for conveying them to the Gaole. *Dal.ibid. Lam.ibid.*

"Whoſoever of that County ſhall refuſe to "give his attendance, and aſſiſt the Juſt. ſhall "be impriſoned, and make fine. *Dal.*56.15. *R.*2 "*cap.*2.

3. Arreſt and remove all offenders, and take their weapons, and prize them for the King. *Dal.ibid.*

If the doores be ſhut, and entrance denied, he may break open the houſe. *Dal.*57. Quære.

The

The Justice cannot arrest or remove the
if he find no force, except by enquirie. *Dal.*

4. The Justice ought to make a record
the force, and either keep it by him or inde
it, and certifie one part either into the Kin
Bench, or to the Clerk of the Peace, and ke
the other. *Dal. ibid.*

"One Justice of Peace upon his own vie
"of forcible detainer, may record the same
"15. *R.* 2. *c.* 2. *Cro.* 61. *b. nu.* 9.

"The Justice or Justices recording a for
"upon his or their view, may not put the par
"put out into possession, but must first enqui
"by a Jury, and the force being found, put t
"party outed into possession. *Dal.* 59.

The record of the Justice is a sufficient con
viction of the offender, and is not traversable
*ibid.*

5. The Justice ought to commit immedi
ately to the next Gaole, those which he finde
continuing the force, untill they pay their fine
*ibid.* & 115. or forfeit an 100. pounds. *ibid.*

But such force must be in the presence o
view of the Justice.

6. The Justices, or some of them that see th
force, are the proper Judges of that offence
and may assesse the fine, but it must be upon
every one severally. *Dal.* 115. & is to be estrea
ted into the Exchequer; upon which assessing
and estreating the party is to be delivered. *Dal
ton* 58. *Lam.* 159.

And so upon payment of the fine to the Ju
stice, or recognizance for payment. *Dal.* 58. *vide
Lam.* 159.

Quære, for the Sheriffe is accountable for
all

ll fines: and *Lamb.* adviseth to referre it over o the Kings Bench. *Lam.* 159.

Or the Justice may record the force, commit he offenders, and certifie the record to the Just. f Assize, or to the Sessions, and there the of-enders fined. *Dal.* 58.

But ought more properly to be assessed by hem that record the force, *Dal.* 91. and to be of alue.

Or the Justice may certifie the record into he Kings Bench, referre the fine thither, *Dal.* 58. which *Lambert* thinketh the best course. *Lam.* 159.

The fines must be reasonable, *secundùm uantitatem & qualitatem delicti. Lam.* 577.

7. The force ought to be enquired of in ome good place or towne, neere where the orce was, *Dal.* 58. and that within a moneth, it be a riot. *Dal.* 115. One Justice may en-uire. *Dal.* 58.

Enquirie may be though the offenders be ot present, or though the Justice goe not to ee the place where the force is. *Dal.* 58. *Lam-* 152.

Without enquirie there can be no restituti-on. *Dal.* 59. *Cro.* 161. b. 164. a.

Upon enquirie making, the Justice must di-ect his precept to the Sheriffe to summon 24. f 40. shill. a yeere land *per annum. Dal.* 213. *vid.* the forme. *Cro.* 132. b. *Dal.* 400.

"If the Sheriffe doe not duely execute the "Justices precept for the returning of a Jury, "he forfeiteth x. li. 8. *H.* 6. *ca.* 9. *Dal.* 58.

Upon default the Justice may award an *alias* nd *pluries infinite* till they come.

The

The Sheriffe, at the day of the second p
cept, must return 40.shill. in issues upon ev
one, at the third Writ five pound, and at eve
day after the double. 8.*H.6.c.9.*

If any Jurour have not 40.shillings lan
yet the enditement is good for the King. Qu
re if there shall be restitution. *Lamb.* 152. *D*
*ton* 213.

Returning of smaller issues then the statu
hindreth not the enquirie. *Dal. ibid. Lam. ibi*

8. Upon enquirie the Justice may make
stitution, wherein the Justice needeth not
examine the title. *Dal.* 214. *Lam.* 156.

No restitution before inquisition. *ibid. Cro*
161.b.164.a. *Dal.* 214.

In the enditement not only the entry, b
allo the putting out must be, and *& adhuc e*
*tra tenent*, *Lam.* 153. for lack of these words
restitution can be made. *Dal.* 214, *Crom.* 163
*Lam.* 153.

The enditement must be good, both in ma
ter and forme. *Dal.* 215. the words *manu for*
or *cum multitudine*, are necessary. *ibid.*

The enditement must expresse the quality
the thing, whether messuage, cottage, &c. *ten*
*mentum* may extend to either, and so in certai
*Dal.* 214.

If restitution be made by a Justice upon a
insufficient enditement, the Kings Bench wi
restore the other. *Dal.* 215. *Cro.* 162.a.

If errour be in the enditement, any two o
these Justices which were at the taking of th
enditement, upon praier of the party, may gran
a *superseder* to stay restitution, if restitution
be not made. *Dal.* 215. *Cro.* 165.a.

Bu

But no Justice not present can grant a *Supersedeas. ibid.*

The Justice may make restitution, or give warrant to the Sheriffe, or certifie into the Kings Bench, and leave the award of restitution to that Court. *Dal.*216. *Lam.*156.

None can grant restitution, but they before whom the force was found, *Dal.*216. except the Kings Bench.

None can personally restore the party, but that took the enquiry, *Dal* 216. And that by except to the Sheriffe. *Lam.*158.

After enquiry the Justice of P. may breake to the house by force, and put the ejected in-possession. *Dal.*59.

If restitution be made without enquiry, it is punishable in the Starre-chamber. *Dal.*45.

Restitution must onely be made to him that was put out. *Dal.*159.213. *Lam.*153.

Restitution is to be made only of house and land, *Dal.*214. but not of rent, common, or advowson. *Dal.*59.

Restitution may be made notwithstanding traverse, *Dal.*60. but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench. *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Starre-chamber. *Dal.*60.

The offenders being gone, the Justice may send his Warrant, and commit them till they find surety of their good behaviour. *Dal.*60.

If force be made by three, it is a riot. *Dal.*61.

*The*

## *The proceedings upon a Writ upon the Statute of Northampton, 2. Ed. 3. 3.*

1. The Justice of Peace to whom this Writ is delivered, is but a minister therein, and comming to the place where the force is supposed, by the Writ he may cause 3. *O-yes*, and then make proclamation for silence, *prout Dalton* 61. *Cro.* 72. a. b. *Lam.* 168.

2. Then may he reade, or cause the Writ be read, or declare the effect thereof.

3. Then let three *O-yes* be made, and make proclamation againe for silence, *prout Dal. Cro.* 72. a. *Lam.* 169.

4. Either enter and search for armour, or enquire by Jury. *Dal.* 62. *Lam. ibid.*

All that remaine after proclamation, are to be imprisoned, and the armour apprized. *ibi*

If upon proclamation they depart, they are not to be imprisoned.

## *The execution of the Statute of Northampton without Writ.*

Every Justice of Peace may execute it *ex officio* without Writ. *Dal.* 62. *Cro.* 72. a.

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Justice may enter, search, commit the offenders there found, apprize the armour, record all what he shall do, & thereout send an estreat into the Exchequer. *Dal.* 62. *Cro. ibid. Lam.* 171.

The Justice cannot make restitution to the arty outed, but onely remove the force. *ibid*, *Lam.* 172.

*Of causes to stay granting of restitution*, vide Dal. 218.

## Forfeitures of a recognizance taken for the Peace.

Whatsoever is a breach of the peace, the same is a forfeiture of the recognizance. *Dalton* 181. as,

1. To threaten a man to his face to beat or kill him, *Cro.* 136. b. *Lam.* 115. but not if he be absent. *Dal.* 152.

2. To strike at, or offer to strike at a man, though he hit him not.

3. All affraies, malicious and violent striking, or other mis-intreatings of the person of another. *Dal.* 181. *Lam.* 127.

4. To goe with company or weapons unusuall. *Dal. ibid. Cro.* 137. a. *Lam.* 126.

5. To command or procure another to break the peace, and if it be done in deed. *Lam.* 115. *Dal.* 182. *Cro.* 137. a.

6. Imprisoning or arresting another without warrant. *Lam.* 127. *Dal.* 182.

To thrust one into the water, whereby he is in danger of drowning. *ibid.*

To ravish a woman against her will. *ibid.*

To commit burglary, robbery, murder, manslaughter, or doe any treason against the person of the King. *Lam.* 127. *Dal.* 182.

To be riotously assembled.

The act that breedeth the forfeiture of a recognizance

cognizance of the peace, must be done t
the person of another. *Dal.*182.

*Vide plus* recognizance, *vide plus* breac
the Peace, and Fines.

One committed for petty larceny, and c
victed thereof, shall forfeit his goods. *Lam.*2
*Dal.*234. *Cro.*36.b.*nu.*20.

Forfeitures upon statutes, *vide* Severall s
tutes.

## Forgerie.

Second forgery of deeds concerning anoth
land after a former conviction is felony. 5.
*lis.*14. but not enquirable by the Justices
Peace. *Dal.*288. *Cro.*56.b. *Lam.*549.

## Forraine plea.

One indicted of petty treason, murder, or
ther felony, pleadeth a forraine Plea tryable
Jury, it shall be tried before the Justices befo
whom he was indicted, and by the Jurours
the same County. 22 *H.*8.*c.*14. 32.*H.*8.*cap.*
*Lam.*552.

## Forrester.

Forrester, Warrener, or Parker, after Huy an
Cry to yeeld, killeth any man in his office m
king resistance, it is justifiable. 21.*E.*1.*de mal*
*factoribus in Parcis. Lam.*235. *Dal.*255.

## Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth
for any victuals or wares before they come t
th

Market, Faire, or Port, or moveth the party
nhaunce the price, or not to bring them to
Market, Faire, or Port. *Lam.* 450.
oreſtaller convicted before the Juſtices of
ce at the Quarter Seſſions by examination
wo witneſſes, or preſentment for foreſtal-
; for the offence ſhall for the firſt time
oſe the goods, and be impriſoned two
neths without baile or mainpriſe.
. For the ſecond loſe double the goods, and
mpriſoned for ſix moneths.
. For the third loſe all his goods, ſtand in
pillory, and bee impriſoned during
gs pleaſure. 5 *Ed.* 6. *c.* 14 *Lam.* 570.
he moitie of the forfeiture upon the ſta-
of foreſtallers due unto the party, is to be
dby *Fieri facias* or *Capias*, to be awarded
e Juſtices of Peace. *Lam.* 584.

## Fowlers and Fowling.

ooter, taker, or deſtroier by guns, bowes,
ng dogges, nets, or other engines, of any
ant, Partridge, Pigeon, Heron, Mallard,
ke, Teale, Wigeon, Growſe Heathcocke,
egame, or ſuch fowles, upon conviction
onfeſſion, or oath of two witneſſes before
Juſtices of Peace, where the offence or ap-
enſion is, to be impriſoned three moneths
out baile, unleſſe he pay to the Church-
dens of one of the places, to the uſe of the
, 20. ſhillings for every Pheſant, and alſo
very egge of Pheſant, Partridge, or Swan
n or deſtroied, or after one moneth of his
mitment become bound with two ſureties

in

in recognizance of twenty pound never to
the like, the same recognizance to be retu
to the Quarter Sessions. 1. *Jac.c.* 27. *Lam.*
*Dal.*89. 7. *Jac.c.*11.

*Vide* Partridges and Pheasants.
Games, *vide* Unlawfull games.

## Gaole. Gaoler.

GAoler or Sheriffe may make a gaole o
owne house; so cannot a Constable
Justice of Peace. *Lam.*133. *Dal.*347,348.

Gaoler suffers a felon to goe at large, an
escapes; it is felony in the Gaoler, not in
prisoner. *Lamb.*229. *Dal.*274. *P.R.*147,
*Dal.*278.

Gaoler by hard and cruell custody comp
his prisoner to become an approver; [illegible]
nie. 14. *E.*3. *cap.*10. *Lam.*231.420. *Crom* 4
*Dal.*288.as,

Gaoler killeth an unruly prisoner w
doth assault him; it is no felony. *Lam.*23

Gaoler by hard usage killeth his prison
is murder. *Lam.*240.

Gaoler that taketh above 4. pence
commitment of any prisoner arrested or
ched, forfeiteth to the party grieved
damages, and 40. pounds, the one moitie
King, the other to the party that will sue
23. *H.*6. *c.*10. *Lam.*431.

Gaoler or Sheriffe refusing to take a
delivered by Constables or Township, o
king any thing for receiving, is to be
4 *E.*3. *c.*10. *Lam.*434.

Six Justices may in sundry shires take order for the common gaole, whereof the Sheriffes shall have the custody, and to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute. 23. H. 8. c. 2. 13. El. 25. Lam. 336. EXP.

Accountant for money levied for the gaole build it, goeth into another County; the Justices of Peace where the gaole is, may send an attachment for him unto another shire. 23. H. 8. c. 2. 25. Hen. 8. c. 5. 5. El. c. 24. Lam. 525. EXP.

Gaoler suffereth a prisoner to go abroad out of his sight, and he returneth not again; it is an escape. Cro. 39. b. m. 5.

Gaoler refuseth to receive one arrested for felony; the Towne must keep him till the gaol delivery, Dal. 348, 349. Cro. 172. a. but the gaoler denying to receive such, shall bee punished by the Justices of Gaole delivery. ibid.

Gaoler shall take no fees of any servant, carpenter, mason, nor other labourer committed for refusing to serve, on paine of 10. pound to the King, and 100. shillings to the party. 5. & 6. E. 6. Cro. 185. a. b.

## Glassmen.

Glassmen of honest life may travell with-out begging within the County, by licence of three Justices under their hands and seales, whereof being of the Quorum, 39. El. c. 4. but by 39. El. c. 17. they are made rogues, and so to be punished.

Goldsmith, or worker of gold must work as fine silver or gold in allay as the sterling and set his marke on it, or forfeit the double value. 2. *Hen.6.c.14. Lam.467.*

None to gild any thing, or any metall but silver, except spurres of Knights, and apparel of Barons, or above, on paine of 10. times the value, and a yeeres imprisonment. 8. *H.5. Lam.467.*

## Good abearing.

Good abearing may be granted upon discretion, and that by one Justice out of the Sessions; yet better not to command it but upon speciall cause seen to themselves, or upon [illegible] of others, and those very honest, and seldom for one cause alone, and not by one Justice onely. *Lam.120. Dal.191.*

Good behaviour may be granted by speciall Writ out of the Chancery, *Custodibus pacis vicecomiti & eorum cuilibet*, upon the statute of 34. *Ed.3.1. Lam.117. Dal.192.*

## *For what causes it is grantable* Dalt.192.

1. Against common barrettours, quarrellers and disturbers of the Peace.

2. Rioters.

3. Liers in waite to rob.

4. Generally feared or suspected to be robbers by the High-way.

5. Such as are likely to commit murder, homicide, or other greivances to the Kings subjects in their bodies. 6. S[illegible]

6. Such as ſhall practiſe to poyſon another.

7. Againſt all ſuch as be of evill name or fame generally, but eſpecially againſt ſuch as are defamed in theſe particulars:

1. Thoſe that haunt bawdy-houſes.

2. Suſpected to keepe houſes of common bawdery.

3. Common whoremongers and common whores.

4. Night-walkers that be ſuſpected to be pilferers.

5. Eveſdroppers that caſt mens carts and gates into ponds, & ſuch like miſdemeaners in the night; ſuch as live idley, yea fare well, and go well clad, having little to live on, except upon examination they give good account of their living.

6. Common haunters of Alehouſes or Taverns, having ſmall meanes to live on.

7. Drunkards twice convicted.

8. Meſſengers of theeves.

9 Such as make falſe hue and crie.

10. Cheaters and couzeners.

11. Libellers.

12. The putative father of a baſtard.

13. Unlawfull hunters in Parkes, after examination taken.

14. Abuſing of officers in executing their office, as Juſtice of Peace, Conſtable, or other officer of the Peace; as a Juſtice ſeeth a man break the Peace, and doth charge him to keep the Peace; who anſwereth, he will not.

Words of contempt againſt a Juſtice of Peace, though he be not executing his office.

15. Abuſing a Juſtice of Peace his warrant.

16. He that complaineth of riot or force, and the Justices being assembled for inquirie will not prosecute.

17. He that chargeth one with felony before a Justice and will not prosecute.

18. Abusing of a *Supersedeas* of the Peace to a wrong end.

## *By divers Statutes.*

1. Disturbers of Preachers. 1. *M. c.* 3.

2. Distroyers of fish ponds, or stealers of fish, after lawfull conviction. 5. *El. c.* 21.

3. Takers of hawkes or hawks egges out of other mens grounds after lawfull conviction. 5. *El. c.* 21.

4. Stealers, hunters, or killers of deere, Conie in Park or warren after lawfull conviction. 3. *Jac. c.* 13.

## *All these must be bound at the Sessions.*

5. Popish recusant must be bound in the Kings Bench. 23. *El. c.* 1.

6. One pardoned for felony, is to be bound before the Sheriffe and Coroners. 10. *Ed.* 3.

7. Disturbers of the execution of the statute for rogues. 39. *El. c.* 4.

8. Disturbers of the execution of the statute for the poore. 39. *El. c.* 4.

9. Shee that hath had twice a bastard. 7. *Jac. cap.* 4.

10. Infected with the plague, or having their houses infected and are unruly. 1. *Jac. cap.*

Greyhounds, *Vide* Hunting.

Gunner that departed from his Captaine without licence, or wandring with a forged licence, it is felony. *Lam.* 427.

Every person may attach an offender against the Statute 33. *H.* 8. c. 6. and carry him to a Justice of Peace. *Dal.* 65.

And the Justice upon examination may send him to the gaole till the penaltie be paid.

## *The particulars of the Statute* 33. Hen. 8.

None under 100. pound *per annum* may shoot in, or keep a gun, dag, pistoll, crosse-bow or stone-bow.

None may have or use any gunne under three quarters of a yard in length.

One of a 100. pound *per annum* may take such gun from the offender, or any crosse-bow or stone-bow, and may keep the bow, but must break the gun.

None may travell with a gun charged, or bow bent, but in time of service, and to the musters, except he have a 100. pound *per annum*. *Dal.* 65.

None may shoot in a gun neere a Market Towne, but in defence of his house or person, or at a Butt.

The master may not command his servant to shoot, except at a Butt, or in war.

1. Except Serving-men (whose masters are enabled) at a Butt.

2. Inhabitant of Market Towne.

3. Persons dwelling alone, or neere the Sea, within five miles.

4. Gun-makers.

5. Those that have Placards.

All persons which shoot in guns (other then such as have 100. pound *per annum*) ought to present their names to the next Justice of Peace, and the Clerk of the Peace should record it. *Dal.66.* maketh *quære* if it be in use.

"The Sheriffe, or any of his Officers may "carry guns, dags, or other weapons, offensive "or defensive, for the execution of their office, notwithstanding the Statute of 33. *Hen.* "*Cok.5.72. Dal.66.*

"Any two Justices may commit, for three "moneths, such as shoot with gun or bow at "any partridge, pheasant, house-dove, mallard, or any fowle, or at any hare, unlesse he "pay 20. shillings. 1. *Jac.c.27. Dal.66.*

*Vide* Hunting Partridges.

## Hares.

"IF any have traced, killed, or destroyed any "Hare in the snow, he loseth 6. shill. 8. pence "for each Hare. 14. *H.8.c.10. Lam.447.*

Buying and selling of Hares, *vide* Partridges. See the Stat. 1. *Jac.c.27.* in Fowlers.

## Harneſſe and Habiliments of war.

To imbezill habiliments of war, or victuals provided for souldiers, mariners, or gunners, is felony. 3. *El.c.4.*

Hart proclaimed, *vide* Deere.

Harveſt

Artificers and other perſons meet to labour, are compellable by one Juſt. of Peace or Conſtable, and the refuſer to labour in hay time or harveſt, is to be put in the Stocks two daies and one night. *Lamb.* 475. the Conſtable or other head officer to doe it upon paine of 40. ſhill. 5. *El. c.* 4. 5.

## Hawks and Hawking.

Unlawfull taker of Hawkes egges is to have three moneths impriſonment, there to remain till he find ſureties for the good behaviour for ſeven yeeres. 5. *El. c.* 21. *Lamb.* 446. *vide* 3. *Jac. cap.* 13.

Taking of Hawkes egges upon ones owne grounds or anothers, or any Eirer, or driving them out of their covert, or bearing any Hawk of the breed of England, called a Ny[illegible], Goſhawk, Taſſel, Lanner, Lanneret, to be impriſoned a yeare and a day, and loſe 10. pounds and the Hawk. 11. *H.* 7. *c.* 17. *Lam.* 446.

Every Juſtice of Peace may examine the offences for hawking or hunting with Spaniels in eared or codded corne, and bind over the offender with ſureties to the next Seſſions. 23. *El. c.* 10. *Dal.* 66. *Lam.* 447.

Againſt hawking at phea ant or partridge, between the firſt of July and laſt of Auguſt, *vide* 7. *Jac. c.* 11. and Partridges.

*Vide plus* Larceny and Felony.

## Hay and Oats.

Inholder taking any thing for litter, baking

horſe-bread, except in Towne or Village being a thorough-fare, and being no City, Town corporate, or Market Towne, the ſame to be of aſſize and weight, after the price of corne and graine in the Market, or ſell horſe-bread, hay, oats, beans, peaſe, provender, and all kind of victuals, both for man and beaſt, for reaſonable gaine; for the offence,

1. Fined.

2. Impriſoned for a moneth without baile.

3. Stand on the Pillory without redemption of mony.

4. Fore-judged for keeping Inne again 21. *Jac.* 6. 11.

## Hedge-breakers.

Breakers and cutters of hedges, pales, raile or fences, cutters and carriers away of corn growing, robbers of orchyards or gardens, pullers up of fruit trees, with intent to carry away, cutters or ſpoilers of woods, poles, or ſtanding trees, convicted before a Juſtice of that County where the offence ſhall be done by confeſſion, or one witneſſe upon oath, are to render ſuch damage as the Juſtice ſhall limit; and if not able, to be whipped by the Conſtable, who for default in his office, is to be committed without baile, till he cauſe it to be done. 43. *El. c.* 7. *Lam.* 302. *Dal.* 143.

No Juſtice to proceed againſt ſuch treſpaſſers for offences done to himſelfe, without aſſiſtance of another Juſtice. *ibid.*

The ſecond offence is whipping. 43. *Eliz. cap.* 7.

High-waies

One Justice may cause high-waies to Markets to be enlarged, and cleansed of bushes and trees. 13. El. c. 5. Dal. 67.

Every Justice may present upon his owne knowledge in open generall Sessions, any high-waies insufficiently repaired, or any default against the Statute, 2. & 3. Ph. & Mar. c. 8. & 5 El. c. 13. and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may assesse the same, though the presented be absent, saving to the offender his traverse. Dal. 67. Cro. 125. b. 195. a. m. 5.

## The defaults contrary to these Statutes.

1. If the Constable and Church-wardens do not on Tuesday or Wednesday in Easter week call together a number of Parishioners, and chuse surveyours for high-waies.

2. If six daies be not by them then appointed for mending high-waies before Midsummer.

3. If notice be not given by them openly in the Church the Sunday after Easter of the said six daies.

4. If he that hath a plow-land in tillage, or pasture, or draught, doe not for every draught or plow-land send one cart with two able men to work eight houres of every of the said six daies, 20. shill.

And every other Parishioner having 5. li. in goods, 40. shil in lands in the subsidy, must find every day two able men, or lose 10. shill. and every cottage one, or lose 12. pence a day.

But 18. *El.* 9. he that occupieth a plow-land in ſeverall Pariſhes, only where he dwelleth and he which hath plow-land in ſeverall Pariſhes, ſhall be charged in each Towne. *Dal.* 68. *Cro.* 82. b.

5. If the carriages be not thought needful by the ſurveyours, then two able men for every cart ſpared, upon paine to forfeit for every one not ſent, 12. pence. 2. & 3. *Phil. & Mar. cap.* 8. *Cro.* 82. b.

6. If fences, hedges, and ditches next adjoyning to the high-waies be not kept low, ſcoured, and repaired.

7. If all trees and buſhes growing in the high-waies be not cut downe by the owner of the land, upon paine of 10. ſhill. for every default. 5 *El. c.* 13. 18. *El. c.* 9.

8. If any choſen to be ſurveyours refuſe the office, or do not execute it, penalty 20. ſhill. 2. & 3. *P. & M. c.* 8.

9. If the ſurveyour doe not within one moneth next after the offence committed, preſent it to the next Juſtice, he forfeiteth 40. ſhill. 5 *El. c.* 13. 29. *El. c.* 5.

10. If the Bailiffe or Conſtable who receiveth the eſtreats, do not levie the ſame, or make not a true account and payment of the ſummes levied to the Conſtable and Churchwardens, or the Conſtables and Churchwardens have not imployed them upon the high-waies.

If the ſurveyours do certifie the next Juſtice within a moneth, the Juſtice ought to certifie the preſentment at the next Seſſions, penalty five pounds.

If the ſurveyours preſent not till after the moneth, and the Juſtices do certifie it at the next Seſſions, it is not good againſt the offenders. *Dal.*70.

Two Juſtices, one being of the Quorum, may call thoſe to whom the eſtreats are delivered, to their account, betwixt the firſt of March and laſt of April, and compell them to pay all ſuch arrerages as they ſhall adjudge to the Conſtables and Churchwardens, or impriſon them till payment of ſuch arrerages be made, and call the Surveyours, and Conſtables, and Churchwardens to an account.

All fines at the Seſſions for high-waies, ſhall be levied by eſtreats indented, ſealed, and ſigned by the Clerk of the Peace, and delivered by him within ſix weeks after Michaelmaſſe. *Dal.*71. as by Statute is appointed. *vide* Statute.

The Biſhop, Chancellor and three Juſtices of Peace, may examine the beſtowing of any mony appointed by any ſtatute for the amending high-waies or bridges, and call to account the detainer thereof. 14. *Eliſ.c.*5. 39. *Eliſ.c.*18. *Lam.*366.

Upon enditement for repaire of bridges in high-waies, there ſhall be like proceſſe as the Kings Bench uſeth, or ſuch as the Juſtices of Peace think meet. 22. *H.*8. *c.*5. *Law.*523.

High-waies leading from one Market Towne to another, ſhall neither have dike, underwood, or buſh, whereby a man may lurk to doe hurt, within two hundred foot of one ſide or other: if default be in the Lord, and any robbery be done therein, he muſt be anſwerable for.

for it; and the Lord of a Park must set it two hundred foot from each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot passe. *Dal.* 133.

## Homicide.

Homicide is the killing of a man by a man. *Dal.* 234.

It is no difference whether the slaine be alien, denison, or English man, if hee live under the Kings protection. *Lamb.* 237. *Cron.* 21. 2. *nu.* 1. *Dal.* 239.

To kill one attainted of treason, or of felony, or outlawed for felony, or attainted in Premunire, is felony. *Dal.* 239. *Cro.* 24. 2. *nu.* 39. *Stamford* 13 *quære.*

Homicide is either killing himselfe, *felo de se*, or another.

*Felo de se* forfeiteth to the King his goods and chatsels reall and personall, and his debts due by specialty. *Dal.* 240. but no lands, nor bloud corrupted. *ibid.*

His goods are not forfeited till his death. *ibid.*

Infant, or *non compos mentis* do not forfeit; but a lunatick killing himselfe out of his lunacy, doth forfeit his goods. *Dal.* 240.

Homicide of another is { Voluntary, Involuntary.

Voluntary is { Murder. *vide* Murder. Manslaughter.

Manslaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other. *Cro.* 26. 2. *Lam.* 248. *Dal.* 247.

Manslaughter

Manslaughter is { By chancemedley. / *Se defendendo* { person. / house and goods.

Manslaughter by chancemedley is felony, but may have his clergy. *Dal.* 247.

One fighting breaks his weapon, a stander by lends him another, whereby the other is killed; it is manslaughter in the lender. *Dalt. ibid. Cro.* 26. b. *nu.* 12. *Lam.* 252.

Two fighting on the sudden, part, and meet again, one killeth the other; it is a continued fray. *Dal. ibid. Lamb.* 250. *Crom.* 23. b. *nu.* 31. & 4. a. *nu.* 36. & 26. a. *nu.* 9.

The servant fighting in his masters defence, though there were malice in the master not told to the servant, *Lam.* 248. so a stranger suddenly taking part. *Id.* 248. it is chancemedley.

Two that were in malice are reconciled, fall out upon new occasion, and one is killed; it is manslaughter only. *Lam.* 250. *Dal.* 248.

*Se defendendo*, when one killeth another in the necessary defence of himselfe or his, thereby to save himselfe or his possessions or goods, or some other persons which he is bound to defend from perill, and it is either against a felon, as murderer or theefe, or a loyall subject. *Lam.* 252. *Dal.* 253.

Against a loyall subject, if he be assayled by another man, he must flie so much as he may till he be letted by some wall, ditch, hedge, preasse of people, or other impediment, that his necessitie of defence may seeme inevitable, and he shall be committed till the time of his triall, lose his goods, and seeke his pardon. *Lam.* 253. *Dal.* 254. It is not materiall though he

he ſtrike againe, if before he give any de
wound he flie to the ſtrait.

" A man flyeth to a wall, and holding
" his weapon, the other runneth upon it
" is ſlaine, it is *ſe defendendo* and forfei
" his goods. *Dal.*274. *Cro.*28.a.*nu.*7. But if
" had fallen on the ground and drawn
" knife, and the other fall on it, and kill
" himſelfe, he forfeiteth no goods, for he co
" not flie, and the ſlaine is in a fort *felo d*
" *Ibid. P. R.*122.b. *Stam.*16.a.

Neither is it materiall though there w
former malice, unleſſe he lye in wait for
other, or agree for the place of fight, or ſtr
the firſt ſtroke. *Lam.*253. *Dal.*254.

Or aſſaulted in his owne houſe upon a ſu
den quarrell, and thereby killeth him. *Lam.*25
but he forfeiteth his goods and muſt have h
pardon, except the aſſaylant came with a fe
nious intent to kill or rob him. *Dal.*25
*Cro.*28.a.*nu.*6. *Lam.*254.

A man falleth to the ground, there his flyi
to a ſtrait is not neceſſary. *Dal.*255.

An officer or miniſter of juſtice, in exec
ting his office being aſſaulted, is not bound
flie, *Dal.*255. *Coke* 9.98.

A ſervant killing him who robbed or kille
his maſter, ſo it be done preſently or in defen
of his maſters perſon or goods, if it canno
otherwiſe be avoided. *Dal. ibid. Cro.*28.*nu.*4.

Forreſter, Parker, or Warrener, or any i
their company, killing an offender in a For
reſt, Parke, or Warren, after hue and crie t
keepe the Peace, if they yeeld not themſelve
but flie, or defend themſelves by violence, it
no

felony. *Dal.*255. *Quere* if there be no ma-
e in the keeper. *Cro.*30.b.

In defence of my house and goods, it is justi-
ble by me, my servants or company, to kill
e who attempteth feloniously to murder or
o me in my dwelling house, or in or neare a
gh-way, horse-way, or foot-way, or burglarily
break my house in the night. *Dalt.*254. *Crom.*
.b.*nu.*1. *Vide. Lamb.*240. of one entring by
ce in the day, and killing in the dark.

To shoot at him that commeth to burn my
use, is justifiable in me or my servants. *Dal.*
*id. Cro. ibid.*

In defence of the possession of my goods, I
ay justifie to beat him that wrongfully
keth them, but not kill him, except he be a
ieefe. *Dal.*255. *Vide* Assault.

To kill a true man, in defence of house,
nd, or goods, is manslaughter. *Dal. ibid.*
o.27 b.*nu.*4.

Involuntary homi- { Misadventure,
cide is by { Necessity.

By misadventure is, when a man doing a
wfull act, without any evill intent, killeth
man: this is not felonie of death, but he shall
ave his pardon of course for life and lands,
ut forfeiteth his goods. *Dalt.*249. *Lamb.*
54.

A schoolmaster, father, mother, or master,
correcting moderately his scholar, child, or
ervant; Shooting at pricks, buts, or lawfull
mark; A workman casting tyle, timber, or
tone from a house, or any thing from a cart
nd giving warning, or doing other lawfull
hing, and giving warning.

Running

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of an unlawfull act, without evill intent, is felony, as shooting arrows, casting stones into highwayes or other place whither men usually resort. *Dal.* 250.

Fighting at Barriers, or running at Tilt without the Kings command.

*Quare* if playing at hand-sword, buckler, foot-ball, wrestlings, and such like, whereby a man is slain or receiveth hurt, and dieth within the year and day, be felony of death, or may have their pardon of course. *Quere similiter* of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh. *Dal.* 251. if it be through the wilfull default of another, it is felony.

The thing which causeth the death is a *Deodand*, and so forfeited to the King. *Crom.* 31. a. *Dal.* 251.

The forfeiture hath relation from the stroke given.

*Deodands* are not forfeited till the matter is found on record. *Dal.* 251.

The Jury which findeth the death of a man, must find and apprize the *Deodand*. It behoveth the towne to see it forth-comming; for the Sheriffe shall be charged with the price, and shall levie the same on the town. *Dal. ibid. Stam.* 21.

If the slain be under 14. years of age, nothing is forfeited as a *Deodand*. *Dal. ibid. Stam.* 21. &c

Homicide

Homicide by neceſſity is { Commanded, Tolerated.

## *Commanded.*

An officer doth execution after judgement, according to his warrant; it is not properly homicide, but juſtice. *Lam.* 234. *Dal.* 252.

If the officer doth not obſerve order of law, it is felonie in the officer. *Dal. ibid. Lam.* 240. *Stam.* 13.

"If a ſtranger, not lawfully deputed, put to "death one condemned to die, it is felony. *Dal.* "*ibid. Lam. ibid.*

"It is not lawfull for the Judge, who "condemned him to be put to death. *ibid.*

## *Tolerated.*

One warranted to arreſt one endited of felony, upon reſiſtance killeth him. *Dal. ibid. Lam.* 234.

Every private perſon upon hue and cry to take a felon, if he reſiſt and will not yeeld, may kill him. *Ibid.*

Conducters of a felon to the Gaole, upon reſiſtance or flight may kill him. *Dal.* 253, *Lam.* 234.

A priſoner in the Gaol attempteth to eſcape and ſtriketh the Gaoler, he killeth the priſoner; it is not felony. *ibid.*

Rioters, forcible enterers or detainers, that ſhall reſiſt the Juſtice of Peace, or other the Kings officers, and will not yeeld themſelves, being ſlaine, it is no felony. *Cro.* 23 h. *nu.* 28.

30. b.

30.b. 158.b. *Lamb.*235. *Dalt.*253.

If an officer, by vertue of the Kings processe arresting one for debt or trespasse, is resisted and killeth the resister, it hath been taken to be no felony. *Dal.*253. *Cro.*24.a.30.b. *Quere Coke lib.*4.*fol.*40,41.

To kil a true man in defence of house, lands or goods, is homicide by necessity. *Dal.*254.

*In all these former cases there must be inevitable necessitie, that the offender could not be taken without killing.* Dal.253.

## Horses and Mares.

Any Justice may hear and take the claim of the owner of any horse, &c. which was stolen within sixe moneths after the sale thereof, the proofe to be made by two witnesses upon oath within forty dayes next ensuing the said claim. *Dal.*73. *Law.*203. 31 *Eliz.c.*12.

The Justice of Peace may minister an oath to the buyer what money he paid, *bonâ fide*, so as the right owner repaying his money may have his horse again. *Dal.ibid.*

Owner, officer, or ruler of any fair, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose forty shillings for every fault and answer the partie greived. 2.3. *P.& M.c.*4. *Lam.*471.

The sale of every horse not being according to the stat. in every point, is void. *Dal.*73. *Lã.*471.

1. The horse must be one houre at the least in the place of the open faire.

2. All the parties to the bargain being in the faire, must come with the horse to the booke-keeper.

3. The

3. The booke-keeper muſt take perfect knowledge of the ſeller and of the voucher, of the Chriſtian name, ſirname, myſtery and place of dwelling.

4. The voucher muſt know the ſeller indeed, and declare to the booke-keeper the Chriſtian name, ſirname, myſtery and dwelling, as well of himſelfe, as of the ſeller.

5. The booke-keeper muſt make a true and perfect entrie of the ſellers name and place of dwelling, &c. and of the true price, forfeiture, 31. *El. cap.* 12.

Every contract for a ſtollen horſe out of the faire is void, though it be after booked. *Dal.* 74.

A ſale in open market ſhall not take away the owners property, the buyer knowing that it was anothers. *Dal. ibid.*

All horſes, and all other goods, are to be ſold in ſuch a place or ſhop as is commonly uſed for the ſelling of goods of the ſame kind, to alter the propertie. *Dal. ibid.*

A theefe ſelleth a ſtollen horſe by a falſe name, and is ſo entred in the toll-book; ſuch miſ-naming maketh the ſale void againſt the owner *Dal.* 74.

## Horſe-bread.

Inholder in a corporate or market Towne, where there is a common baker that hath beene an apprentice therein ſeven yeeres, may not make horſe-bread within his houſe. 32. *H.* 8. 41. 21. *Jac. c.* 21.

Inholder or oſtler in a thorow fare-towne, being no city, towne corporate, or market towne, being a baker, and one that hath bin

an

an apprentice therein seven yeeres, may make horse-bread within his house. 21. *Jac. cap.*

The horse-bread must be sufficient, lawful and of due assize, according to the price of corne. 21. *Jac.* 21.

Penaltie
1. Fine.
2. Imprisonment for a month without baile.
3. Stand in the pillory without redemption of money.
4. Forejudged for keeping Inn againe. 21. *Jac.* 7. 21.

*Vide* Inne-holder.

## Hospitall.

The Bishop and his Chancellour, with two Justices of Peace next inhabiting, may change the collectors of a revenue of an Hospital, upon a paine, presently to account and to imploy the surplusage to the use of the Hospitall. *Linw.* 358. 14. *Eliz.* c. 5. 39. *El.* c. 6.

Hospitalitie, *vide* Religious house.

## House.

1. A mans house is his castle for defence. *Bul.* 209.

2. It protecteth against any arrest at the suit of any subject. *ibid.*

3. In some cases it is a privilege against the Kings Prerogative; for it hath beene adjudged that Salt-peter men may not digge in a Mans own-house without the owners consent. *ibid. Cok.* li. 11. fol. 82.

Theeves

Theeves or murderers attempting to rob or murder a man in his house, he may assemble company and kill any of them, and forfeiteth nothing. *ibid.*

He may beat him that will enter upon his possession, but may not kill him. *Quære* if he may hire strangers to aid him, or put his ordinary company in armour. *Dal.* 209.

*Vide plus* Homicide.

## House of Correction.

House of Correction with implements and backsides fitting for setting on work idle persons, to be erected and provided in a convenient place in every Countie before Michaell next: the same to be conveyed over to such as by the greatest part of the Justices at the quarter Sessions shall be chosen to be imployed for setting on work idle and disorderly persons, on pain of five pound for every Justice of Peace, the one moytie to the informer, the other towards the erecting of the house. 7. *Jac. cap.* 4.

Master of the said house to be appointed by most of the Justices at the Q. Sessions, next after providing of the said house, who is to set on worke, and moderately to correct by whipping or fettering such persons as shall be sent to him. 7. *Jac. c.* 4.

Master of the house of correction giving sufficient securitie for performance and continuance of his service, is to have yearly such money as by most of the Justices at Q. Sessions shall be thought meet, to be paid quarterly by the

the Treasurer, or else the master to levie it in such sort as the Treasurer may. 7. *Jac. c.* 4.

Constables shall appeare before the Justices of Peace twice in the yeare, and give an account upon oath in writing, under the hand of the minister, what rogues have been apprehended, and how many punished. 7. *Jac. c.* 4.

Constables not safely conveying to the house of Correction such as by the Justices of Peace at their meeting for the execution of the statute 7. *Jac. c.* 4. shall be sent thither, to pay such fine under forty shillings, as by most of the Justices shall be assessed. 7. *Jac. c.* 4.

A woman, having a bastard which may be chargeable to the parish, for the first offence to be sent to the house of correction one yeare, for the second offence to be sent to the house of correction, and to remain there (as aforesaid) till shee find sureties for the good behaviour, and not to offend so again. 7. *Jac. c.* 4.

Any able to work, and threatning to run away, and leave their families upon the parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the parish, or to be sent to the house of correction. 7. *Jac. c.* 4.

Master of the house of correction quarterly at the Sessions must yeeld account of such as have been committed, or is to be fined by most of the Justices. 7. *Jac. c.* 4.

If any committed become troublesome to the countrey by going abroad, or escape without lawfull delivery, the master is to be fined by most of the Justices at the Q. Sessions. 7. *Jac. c.* 4.

All

All penalties not limited by the ſtatute. *Jac.*4. ſhall be paid to the Treaſurer, and ccounted by him.7. *Jac.c.*4.

*Vide plus* Poore people.

## Hunting.

One Juſtice of Peace, upon information of y unlawfull hunting of Deere or Conyes by ght, or with painted faces, or other diſgui- in forreſt, park, or warren, may make rant to the Sheriffe, Conſtable, Bayliffe, o- her officer, to take the partie ſuſpected, and bring him before him, or ſome other Juſtice, examine him thereof; and if he conceale the nting, or any offender with him therein, the ncealment is felony in the concealer, but truth confeſſed is but fineable at the next Seſſions, 1. *H.*7.*c.*7. *Lam.*191. *Dal.*180.

To diſobey ſuch a warrant, or make reſcous reupon, ſo that execution of that warrant not had, is felony. 1. *H.*7.*c.*7. *Dal.*75.

The Juſtice of Peace that taketh examina- n of the offender for unlawfull hunting in kes, &c. may after the examination binde offender to his good behaviour, to the end be forth-comming till the offence and the ender, bee lawfully examined. *Dal.*75.76.

Unlawfull hunting by three or more will ove a riot. *Dal.*76.

Any by night or day wrongfully entring in- any incloſed ground, kept for keeping of eere or Conies, and there chaſing or killing them, upon conviction to be impriſoned ree moneths without baile, and there to

continue

continue till he pay treble damages and c
to be assessed by the Justices before whom
is convicted, or pay to the party grieved
pound for Deere at the election of the
tie grieved, 7. *Jac. c.* 13. and find sureties for
good behaviour for seven yeers. 3. *Jac. ca.*
7. *Jac. c.* 13. *Lam.* 449.

The partie grieved or the Justices of Pe
upon satisfaction of the partie grieved,
confession of his offence, and that he is
for the same, in open Sessions may releas
offender of his bond for the good beha
3. *Jac. c.* 13.

The statute, 3. *Jac. c.* 13. doth not punish
fenders in parks or inclosed grounds made
ter the statute, without the Kings lice
3. *Jac. c.* 13.

Enquiring, hearing, and determining o
fences against the statute 3. *Jac. cap.* 13. ma
made by the Justices of Peace and Ge
delivery at the Sessions, and they may aw
processe upon enditements, informations,
of complaint, or other actions whereon n
soine, &c. 3. *Jac. c.* 13.

Any not having lands of inheritance in
owne or wives right, of the cleare yearly v
of 10. li. or for terme of life of 30. li. *per*
*annum*, or goods to his owne use worth 2
keeping Greyhound to course Deere or h
except the son of a Knight or Baron of Pa
ment, or son and heire of an Esquire, u
conviction by confession or oath of two w
nesses before two Justices of Peace, where
offence is committed, the party apprehen
to be imprisoned three moneths without ba

ex

except he presently pay to the Churchwardens where the offence was committed, or party apprehended, 40.shill. to the use of the poore of the said Parish. 1. *Jac.c.*27.

Any having lands in fee simple or fee taile of 100.li. *per annum*, finding any not having lands of 40.li. *per annum*, nor worth 200.li. in goods, to use any gun, bow, dogs, or engines for killing of deer or hare, except parker or warrener, or owners of either of them, or other grounds inclosed for deer or conies, that shall be yearly worth 40 shil. may take any their guns, bowes, engines and dogs, and keep them to his owne use. 3. *Jac.c.*13.

Lay person not having in lands 40.s. *per annum*, spirituall person a benefice not 10.li. *per annum*, keeping dogs to hunt, or using ferrets, &c. shall be imprisoned for a yeare. 3. *R.*2. *c.*13. *Vide* Parks.

## Hundred.

Hundred with the liberties therein to bee equally taxed by two Justices of Peace, one to be of the *Quorum*, in or neere the hundred, for relief of those that are robbed. 27. *Elis. cap.*13. *fol.*132.299.

The robbed shall not have his action upon the statute of 27. *Elis. c.*13. except he first with speed convenient give notice of the robbery to some inhabitant, near the place where he was robbed.

2. Commence his suit within a yeer next after such robbery committed.

3. Hee being examined upon his oath with-
in 20. daies next before such actions brought
by one Just. where the robbery was committed
dwelling near to the hundred if he knew the
robbers, or any of them.

If he knew any of the robbers before such
action, he shall be bound before the said Jus-
tice to prosecute the offenders effectually by
enditement, or otherwise by course of law.
*Dal.* 131.

The hundred must answer the losse, if the
robbers be not taken within 40. daies. *Dal.* 132.
299. *Cro.* 179. a. *Vide* Robbery.

A man is slain in the day time out of a town
and the murderer doth escape, the hundred
shall be charged therewith. 299.

Jury of one hundred may present an offence
done in another hundred. *Lam.* 399.

"Robbery in a house doth not charge the
"hundred, though it be in the day time. *Mid-*
"*dleton* 133.

"Robbery in the night doth not charge the
"hundred, yet if it be by day-light, though
"before sun-rising or after sun-setting, the
"hundred shall answer it. *Dal.* 133. *Cokes*
"*fol.* 6.

"If upon pursuit, the offenders or any of
"them be taken, the hundred shall not be
"charged. *Dal.* 133.

"If the party robbed take any of the theeves
"after Hue and Cry made, it excuseth the
"hundred. *Dal. ibid. Cro.* 179. b.

"He w^ch is robbed shall not have his action
"where one of the felons is taken, but if the

"be no Hue & Cry the village ſhall be amer-
"ced, though one of the felons be taken. *Cro.*
"179.b.

*Vide plus* Hue and Cry.

## Hue and Cry.

For the apprehending of homicides, burglars, robbers, and other felons, hue and crie ſhall be made, and every man ſhall follow the hue and cries; and he that doth not, ſhall be attached to appeare before the Juſtices of gaol-delivery. It ſeemeth any Juſtice of Peace may bind him over by the commiſſion. *Dalt.*299. *Cro.*179.b.

Hue and Crie ought to be made from town to town, from countrey to countrey, by horſemen and foot-men. 13.*Ed.*1.*c.*12.27.*El.c.*13. *Dal.*75.*Cro.*178.b.179 a.b. otherwiſe it is no lawfull purſuit.

Upon committing of any robberie or felonie, the Officer of the town where it was done, ought to ſend hue and cry to every town round about him. *Dal.*75.*Cro.*178.b.*nu.*2.

Every Juſtice of Peace may cauſe hue and crie, freſh ſuit and ſearch to be made upon any murder, robberie, theft, or other felony committed, by force of the firſt *aſſignavimus*. *Dal.*49.75.*Lam.*185.

By a falſe hue and crie to enter into any houſe with the Conſtable, to bind and rob the Conſtable and maſter of the houſe in the night, is burglary. *Dal.*257. *Cro.*32.b.*nu.*24. *Lam.*263.

*Vide plus* Robberie.

"The inhabitants of any hundred (either
"within the county wherein the robbery was
"done, or in any other county wherein de-
"fault shall be of fresh suit after hue and cry
"made) shall satisfie the moity of such mony
"as shall be recovered against the hundred
"where the robbery was done. *Dal.* 132.

"In levying hue and cry it is necessary to
"give notice of the thing stolne, as horse &c.
"of the colour and speciall markes: so of the
"theeves person, apparell, &c. to search sus-
"spected places, and to take suspicious per-
"sons, and bring them before a Justice of
"Peace to be examined. *Cro.* 178. b.

"If any rayse hue and cry without cause,
"shall be attached for disturbing the Peace.
"*Cro.* 179. a.

## Jesuites and Seminary Priests.

ANy Justice of Peace within the county in
which any Jesuite, Seminary Priests,
other Priests, Deacons, religious or Eccle-
asticall person shall arrive or land, may within
in three dayes after take the submission, oath
and acknowledgment of him touching his obe-
dience to the King and lawes provided in case
of religion. 27. *El. c.* 2, *Lam.* 198. *Dal.* 104.

Every one understanding that any such
Priest, &c. shall be within any of the King's
dominions, ought to discover the same to some
Justice or other superiour officer, within ten
dayes after such knowledge, under the paine of
fine and imprisonment; and the Justice with

in 28 daies must give information thereof to one of the privie Councell, on pain of 200. marks. 27. *El. c.* 2. *Lam.* 193. *Dal.* 104.

Two Justices of Peace of the County where any of the Kings Subjects that are no Jesuites, &c. brought up in any Colledge of Jesuites, or in Seminaries, shall arrive within six moneths after proclamation made to that end, may within two daies after their returne take their submission under the oath of supremacy. 1. *El. c.* 2. 27. *El.* 2.

To receive Jesuites or Seminarie Priests, contrarie to the statute, is felony. *Lam.* 414. 27. *El. c.* 2.

Any within three daies after the offence committed, discovering to any Justice of Peace any recusant, Seminarie, or Popish Priest, or any Masse to have beene said (any of them then present there) and by reason of his discovery, any offender be taken and convicted, he shal be freed from the danger of the offence, and have the third part of the forfeiture by such offence. 3. *Jac. c.* 5. *Lam.* 199. *Dal.* 106.

Imprisonments, *vide* Prison.

Indictments, *vide* Enditements.

## Information.

Information against a felon; whether it shall be taken by oath or no is uncertain: but *Lamb.* 213, 214, 215. & *Dal.* 367. & *Cro.* 194. a. *nu.* 5. do best allow it by oath, and so do divers Judges in their circuits.

No proces can be awarded upon information of a private person, unlesse where the statute

particularly warranteth inquirie by information, as the ſtatute of 5.*Eliz.c.*4. of labourers, 5.*Eliz.c.*21. of taking of fiſh, deer, or hawks.

Information of ſuch as bring a felon, muſt be taken by a Juſtice of Peace: ſo much thereof as is materiall hee muſt put in writing within two daies after the examination. *Lamb.*212. & 3.*Ph.& Ma.c.*10.*Dal.*303.

Two informe againſt another in matter of felony, and do varie in their tales, *viz.* in the day and place when & where it was committed; ſuch information is not to bee credited. *Dal.*303.*Cro.*100.a.

The bringer of the ſuſpected will not informe, it is meete to binde him over to give evidence. *Dal.*206.

Forme of a recognizance for the informer againſt a felon. *Lam.*214,216.

"It is not neceſſary in an information for "the King to recite the ſtatute upon which the "Bill is framed, but to ſay *contra formam ſta-* "*tuti in hujuſmodi caſu editi & proviſi.* Cron. "104.*b.*nu.50.53.

## Informers and Promoters.

Informer compounding for any offence againſt a penall law, without conſent of ſome of the Courts of Weſtminſter, or willingly delaying or diſcontinuing a ſuit, loſeth 10 pounds and is to ſtand in the pillorie being convict thereof at the Quarter Seſſions. 18.*El.cap.*5. 27.*El.c.*10.*Lam.*439,609. the ſame to be heard at the Quarter Seſſions.

"All actions for any offences againſt any "penall ſtatute, ſhall be commenced in the

"County

County only where the offence was committed, and upon the defendants pleading *Nihil debet*, or Not guilty, the plaintife muſt prove, 1. the offence, 2. to be done in the county. 21. *Jac.c.*4.

"No officer ſhall receive, file, or enter of record, any information, Bill, &c. untill the informer hath taken his oath before ſome Judge of that court, that the offence was done in the ſame county within a yeere before the information or ſuite. 21. *Jac.c.*4.

## Ingroſſer.

Ingroſſer is hee that by any contract (unleſſe by grant of land or tithe,) buyeth corne on the ground or other dead victuals, to the intent to ſell them again, except buyers of barley or oats, to make malt or oat-meale. Victuallers not foreſtalling, Badgers and Drovers not abuſing their lawfull licence, buyers of forrein commodities, except fiſh and falt, are excepted. 5. *Ed.6.c.*14. 5. *Eliſ.c.*12. 13. *Eli.c.*25. *Lam.*451.

## Inne-holder.

Inne-holder taking any thing for litter, or exceſſively for hay, or above a halfe penny a buſhell above the market for oats, loſeth foure times the value of the overplus. 13. *R.*2. *c.*8. 4. *H.*4. *c.*25. *Lam.*473. repealed by 21. *Jac.c.*21. *Vide plus* Horſe-bread.

Inne-holder or Ale-houſe-keeper may be compelled by a Conſtable to lodge ſtrangers. *Dal.*28.

Inne-holder that ſuffereth a non-inhabitant to tipple in his houſe, ſhall incurre the penalties limited, 1. *Jac.c.*9. 1. *Car.c.*4.

Inne-keeper, taverner, victualler, is within the ſtatute. 1. *Jac.*9.*c.*4. *Jac.c.*5. 1. *Car.c.*4.

Inmates, *vide* Cottages.

## Inrolment.

One Juſtice of Peace may joyne with the Clerk of the Peace in taking of an inrolment of an indenture of bargain and ſale of lands, &c. lying in the ſame countie, and either of them is to have 12 pen. if the land exceed not in value 40 ſhillings a yeere; and if it doe, then 2 ſhillings 6. pence a piece; and taking above, fined. 27. *H.*8.*c.*16. *Lam.*196, 369, 393, 436.

## Iſſues.

The Sheriffe that gathereth other eſtreats of iſſues then of right are due, forfeiteth 5 marks to the King, as much to the partie. 27. *Eliſ.c.*7. *Cro.*201.*a.* *Lam.*432. Forfeitures of iſſues by jurors are to bee levied by Records of execution awarded by the Juſtices of Peace. 27. *Eliſ.c.*7. *Lam.*585.

## Judgement.

Ambiguitie ariſing in judgement betwixt the Juſtices of Peace, they ſhall forbeare to proceed till the Judges come; but if they will proceed, the judgement is not void, but muſt be reverſed. *Lam.*568. The commiſſion it ſelfe.

Where

Where the ſtatute appointeth a puniſhment, there judgement muſt be according to the ſtatute *Lam.*570.

Upon treſpaſſe, riots, and ſuch other offences: where no forfeiture is preſcribed, judgement is to be taken and ranſomed. *Lam.*570.

*Vide plus* the ſeverall offences.

Juglers, *vide* Licenſe.

## Jurors.

Jurors both for enquirie and triall, ought to be *Probi & legales homines. Lam.*396.

### *What perſons may not bee Jurors, and being Jurors make preſentments void, unleſſe there bee twelve beſides.*

1 Attainted in conſpiracie, 2. Attaint. 3. *Decies tantum*, 4. Subornation of perjury, 5. Concealment they bee not *probi*, and their preſentment void, unleſſe there be twelve beſides them that are not blemiſhed. *Lam.*396.6. Outlawed, 7. Abjured, 8. Condemned in a *Præmunire*, 9. Attainted of treaſon, 10. Felonie, &c. *ibid.* 11. Women, 12. Infants under 14 yeeres of age, 13. Aliens, 14. Clergie-men. *ibid.*

Jurors muſt be inhabitants or freeholders within the Countie, to the value of 40. ſhillings *per annum*, but in Cities and Boroughs to the value of 40. ſhillings in goods. *Lam.*396. 397.

Jurors for triall of an indictment within

the Countie Palatine of Lancaſter muſt have 5. pound *per annum. ib.*

Juror 70. yeeres old or decrepit, returned by the Sheriffe muſt ſerve if the Juſtices will; but he may ſue the Sheriffe upon the Statute of *Weſtminſter*, 2. *c.* 38. *Lam.* 397.

Juror exempted by Charter with theſe words *Licet tangat nos*, is to be diſcharged upon his appearance, but he ought to ſhew it to the Sheriffe. *ibid.*

When there is want of ſufficient Jurors, no exemption can diſcharge. *ibid.*

Preſentment is good though ſome of the Jurors be allyed to him that procureth the preſentment: but it is no diſcretion in the Juſtices to ſuffer any ſuch to be impannelled. *Lam.* 398.

If the particular Juries for the hundred cannot be ſupplied by thoſe of the hundred, it is better to take *Tales de circumſtantibus*, of other hundreds, then to be renewed with a *Tales* from Seſſions to Seſſions. *Lam.* 398.

Jurie of one hundred may preſent an offence done in another hundred. *Lam.* 399.

Juſtices may command the Sheriffe to alter the pannell, and hee refuſing forfeiteth 20. pound *ibid.* 3. *H.* 8. *c.* 12.

All the Jurors muſt be ſworne, otherwiſe their preſentments are void: but the Record being that all the Jurors were ſworne, the preſentments are good though all be not ſworne. *Lam.* 399

Juror after he is ſworne, upon cauſe may be removed by the Juſtices. *Lam.* 400.

Jurie after ſwearing adjourned to another time, may be then ſworne again. *ibid.*

Jurors

Jurors of enquirie muſt be 12. but there may be more, and it is beſt to have them odde. *Lam.*400.

If 12. Jurors doe agree, the reſidue cannot gainſay. *ibid.*

Juries of enquiry ought not to be committed to a keeper, nor kept without victualls, nor carried out of the town, but may be adjourned to another place to give up their verdict. *Lam.*400.

Jurors which doe wilfully conceale offences preſentable, and which bee complained of by bill, may be enquired of by perſons whereof every one may diſpend 40. ſhillings *per annum*; and ſuch concealment being found within a yeare after, every Juror ſhall bee amerced in open Seſſions. 3. *Hen.*7. *c.*1. *Lam.*400, 401.

Jurors that diſcover what they have done, are to bee fined. *Lam.*402.

Juror taking any thing to make a favourable preſentment, ſhal be impriſoned and ranſomed *Lam.*441. *Cro.*84. 2. 5. *Ed.*3. *c.*10.

No Juror to be returned without an addition whereby he may be known. 27. *Eliſ. c.*7. *Lam.*432.

*Vide plus* Challenge.

## Juſtices of the Peace.

Juſtices of Peace were created. 1. *Ed.*3. *c.*16. *Dal.*6. *Lam.*20.

Juſtice of Peace is Judge of Record. *Dal.*7. *Cro* 120. 2. *nu.*7. *Lam.*62.

He may take a recognizance of Peace, which none can doe but a Judge of Record. *Dal.*8.

*Lam.*

*Lamb.*186. *Crom.*196.a. *num.*1.

His warrant is not disputable by the Constable, but it is to be understood when the Justice of Peace hath jurisdiction of the cause. *Dal.*8.*Cro.*147.b.*Lam.*65.91.

His testimony in some cases is of as great force, and in some cases greater then an indictment of 12.men upon oath, as in the cases of force, riots, presentments of high-waies. *Dal.*9. *Lam.*65.

The authority granted to Justices of Peace by commission doth determine by death of the King, or at the Kings pleasure. As to be discharged by Writ under the great Seale. 2.By *Supersedeas.* 3.By granting a new commission and knowledge thereof. *Dalt.*11. *Crom.*188.a. *Lam.*69.

2. By publishing the new commission at Assizes or Sessions, or any County Court.

3. By holding open Sessions by vertue of the new commission. *Dal.*11.*Cro.*188.a.*Lam.*69.

4. "By accession of another office, as being "Sheriffe or Coroner of the County. *Cro.*121. "*nu.*13.14. but so doth not the addition of a "greater name of dignity, as Knight, Serjeant "at Law. *Cro.*188.a.

Exercising the office of a Justice of Peace before oath taken, is finable. *Dal.*15.352.

Justice of Peace hath not authority but in the County where he is Justice. *Dal.*23.

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or Felony. *Dal.*23.*Cro.*120.b.*nu.*12.

Justice of Peace is not to intermeddle in any

Citie

Citie or Corporation, which have their proper Justices. *Dal.*23. *Crom.*8.a.*nu.*39.181.b.189.a. *Li.*47. *Cro.*121.a.*nu.*20. 1.*&* 2.*P.& M.c.*18.

Justices of P. ought not to execute their offices in their own case. *Dal.*352. *Cro.*68.a.*nu.*4. Yet a Just. of P. being assaulted, may cõmit the offender to prison. *Cro.*68.a. *Lam.*134. *Dal.*352.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his owne possession, and commit the offender. *Cro.* 67.b.68.a.*nu.*4.

Justice of Peace chargeth one that maketh an assault or affray, to keep the Peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour. *Dal.*195.

Justice of Peace must proceed by the prescript of the commission and statute. *Dal.*20.

Where the statute referreth the triall, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath. *Dal.*22.155.

One Justice of Peace ought not to bind one to appeare at the Quarter Sessions, to answer his fault committed against a penall law, except the stat. of Labourers. *Lam.*187. *Dal.*339.

Every Justice of Peace is a conservatour of Rivers within his Countie. *Lam.*189.

Justice of Peace not giving remedy to the partie grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of Assize, or the Lord Chancellour, is to be put out of commission by the Lord Chancellour, and punished according to his desert. 4.*Hen.*7.*c.*12. *Lam.*370. *Cro.* 120.b.*nu.*6. *Dal.*353.

One Justice of Peace may command fresh

suit,

suit, hue and cry, and search to bee ma
by officers and others, after thefts, robberies
enjoyne watches for the arresting of suspect
persons and night-walkers, high-waies to be
enlarged, that two Constables be chosen i
every Hundred, forbid Faires and Markets
Churchyards, command all between 15. an
60. to be sworne to the peace, charge the Co
stable to arrest all such as bee suspected to be
drawlatches, wasters, or robbers of men, *Lã.*18

Justice of Peace taking bond in his own
name, and not *Domino Regi*, in a cause touchin
the King, is to be imprisoned. 33. *Hen.*8. *c.*39
*Lam.*102.143.

Justices of Peace at their Sessions are of e
quall authority. *Lã.*385. *Vide Cro.*1222. *nu.*33

Justice of Peace must send his prisoners t
the common gaole. *Lam.*133. 5. *H.*4. *c.*10.

A felon is brought before a Justice of Peace
upon suspicion, though it appeare to the Ju
stice hee is not guilty, yet hee may not set him
at liberty, but so as hee may come to his triall.
*Lam.*233. *Dal* 279.304.353. *Cro.*40. *b. nu.*20.
otherwise it will prove a voluntary escape in
the Justice; for hee is not to bee delivered by
any mans discretion *Dal.*8. *Lam. ut supra.*

A man is arrested for felony by a Constable
or other, who afterwards hath knowledge that
there is no such felony done, the opinion of
*Keble*, *Comsby*, and Serjeant *Frowick*, was, that
he might set him at liberty: but if one be kil-
led, and another bee arrested for suspicion,
though after he know the arrested is guiltlesse,
or was arrested for malice; he ought not to set
him at liberty, but must be delivered by course

of

of law, otherwise it is felonie. *Cro.* 40. *nu.* b. 20.

If Justice of Peace dwelleth, or is in another county, he cannot cause one to be brought before him out of the county where he is Justice into another county. *Dal.* 23 *Cro.* 120. *b. nu.* 12.

## *What things a Justice of Peace ought to doe* ex officio.

Record a demurrer upon the evidence. *La.* 539

Give day to the party to bring in a Record that is before other Justices, which is pleaded by way of justification. *Lam.* 539

If thinking an enditement to bee void, they have discharged the prisoner, paying his fees; yet (upon change of their opinion) they may stay him any time before judgement. *Lam.* 540.

Justices of Peace ought not to suffer the King to be disadvantaged, if they may lawfully prevent it. *Lam.* 540.

In absence of the Kings Atturny, the Justices of Peace may take issue with one that pleadeth a pardon, that he is one of the parties excepted. *Lam* 540.

Justices of Peace cannot acquit felons by proclamations; but if no prosecution be, they are to keep them till the coming of the Justices of gaol-delivery *Lam.* 550.

Justices of Peace may enquire of all manner of felonies at the common law, or given by any statute, and of all manner of trespasses done against the peace of the King, and of such trespasser wherein action of the case will lie for trespasse or deceit; for in the end of the Writ grounded upon the case, it is contained *contra pacem nostram. Cro.* 8. 2. *nu.* 25.

"Justice of Peace shall be punished for co
"spiring with another to indict a stranger
"the Sessions: but not for a thing done
"him in Sessions as a Judge. *Cro.* 122.a.*nu.*3

One Justice of Peace rebukes another; ne
ther he, nor any of his fellow Justices, can com
mit him; for all are by one authority: an
therefore hath no remedy if the King will n
remove him; but if one Justice abuse another
open Sessions, it seemes the rest may bind hi
to the Peace. *Cro.* 122.a.*nu* 33. 134.b. *Lam.* 385

Defaults against the statute, 3. *Hen.* 6.*c.*1
for levying of wages for Knights of the shi
are to bee heard and determined by enquir
for the King, or action for the party before t
Just. of Peace. *Lam.* 512.

"Justice of Peace needs not shew his com
"mission, by which hee is made Justice, whe
"hee justifieth the doing of any thing as a Ju
"stice; for hee is Justice of Record, and th
"commission remaineth with the *Custos rotu*
"*lorum* of the said County, and he is called b
"the commission in open Assizes and Sessi
"ons. *Cro.* 120.b.*nu.*13. *Lam.* 387.

"Justice of Peace hath a Record in his
"hands, and is discharged of his office, he
"cannot certifie the same without a Writ
"of *Certiorari*, although hee bee made Ju
"stice afterwards. *Cro.* 121.a. *nu.* 15. & 132.a.

"Justice of Peace may have his action o
"the Case against him that calleth him *False*
"*Justice of the Peace.* It seemeth also, that hee
"may be indicted: for they may enquire of all
"trespasses, where a man may have his action
"of the Case. *Cro.* 121.a.*nu.*21. & 122.a.*nu.*29

"*Quicquid*

"*Quicquid Justiciarius fecerit de Recordo, ignoranter & pro defectu scientiæ, non erit pro eo punitus. Sicut accidit de Seneschallo libertatis Abbatis de Crowland, qui colore libertatis de infangthefe, judicavit hominem mori contra legem: pro eo libertas seisita fuit in manus Regis, & nulla pœna Seneschallo.* Cro. 121. b. nu. 24.

"*Justiciarius non potest puniri pro re per ipsum facta judicialiter: sed Officiarii, ut Vicecomes & alii Officiarii de Recordo erunt puniti.* Cro. 122. a. nu. 28.

"Just. of P. certifieth into the Kings Bench, that such a man broke the peace in his presence, the party shalbe put to his fine without any Traverse to the same. *Cro.* 132. a.

"Just. of P. who is of the Quorum, ought to be resiant within the County where he is Just. of the Quorum. 2. *H.* 5. *c.* 4. *Cro.* 122. a. *nu.* 34.

"Justice of Peace was put out of Commission *in Camera Stellata*, for that he refused to take surety of the peace of one that came before him, who offered to find surety of the peace; for that the Justice which granted the warrant was not his friend, and thereupon would not goe before him to bee bound. *Cro. Jurisd. of Courts.* 31. b.

"One Just. of P. upon his view of forcible detainer may record the same by 15. *R.* 2. *c.* 2. but in case of Riot or Rout, &c. there must be two Just. of P. with the Sheriffe or Under-Sheriffe. 13. *H.* 4. *c.* 7. *Cro.* 61. b. *nu.* 9.

"Justice of Peace commandeth one upon paine of 10. li. by his precept, to bee at the next Q. Sessions, and he appeareth not: No *Scire facias* shall goe forth more then if

"there

"there had been a *Subpœna:* but it seeme
"that hee shall bee attached to be at the ne
"Sessions, upon a contempt. *Cro.*123.a.*nu.*

"An affray is made within a Corpora
"Towne, whilest the Sessions be held there
"And that Town hath Justices within it sel
"the Justices of Peace shall not entermedd
"there: but otherwise it is at the Assize
"*Cro.*146.b.

## Labourers and Servants.

ONe Justice of Peace may cause all artif
cers and other persons meet to labour
his discretion, to worke by the day in hay a
corn-harvest time, or imprison the refusers i
the stockes for two daies and one night. 5.E
c.4.*Dal.*77.*Lam.*475.

The Constable refusing to stock them, lose
40.shill.

One Just.of Peace under his hand and seal
may licence labourers in hay and harvest tim
to goe into another countrie to work. *Dal.ibi*

One Justice of Peace upon complaintma
compell meet persons to be bound as apprent
ces to husbandry, or any other art, &c. and fo
refusall commit them to ward, there to remai
untill they be bound to serve according to th
statute. *Dal.*77. 5.*El.c.*4.

One Justice of Peace may take order betwi
the master and apprentice, for want of confor
mity in the master, bind him over to the Quar
ter Sessions, where foure Justices, one being o
the Quorum, may discharge the apprentice
and

d if fault bee in the apprentice, inflict due rection, *Dal.*78. but if the first Justice find lt in the apprentice, *quære* if hee may by *Fac.c.*4. send him to the house of Correcti- as an idle disorderly person. *Dal.*78.

One Justice of Peace may allow of the cause putting away of a servant, or of his depar- e within his terme. *Dal.*79. 5. *Elis.c* 4.

But an apprentice must bee discharged by ure Justices of Peace in open Sessions. *ibid.*

One Justice of Peace may command va- ant persons to prison, if they will not serve. *l.*81.

One Justice of Peace may make his Warrant attach a servant departing, to be at the Ses- ns, or may send him to the house of Corre- ion. *Dal.*78.

Two Justices of Peace, upon complaint that ervant departed before the end of his terme except 1. cause be allowed by one Justice of eace; or 2. at the end of his terme, without e quarters warning before two witnesses; or hath refused to serve for the wages appointed proclamation, according to the statute; or hath promised to serve accordingly, and doth ot) may examine the matter, and may com- it without baile such faulty person till he be ound to serve and continue, and then he is to e discharged without fee to the gaoler. *Dalt.* 9. *Lam.*230.

Two Just. of the P. may imprison the ma- er for 10. daies without baile, and the servant or 21. daies, that giveth or taketh greater wa- es then are allowed by statute. *Dal.*80. *Lamb.* 30. and the master loseth 5. li. 5. *El.c.*4.

All

All retainer, promise, or payment of wa
or any other thing contrary to statute, and e
ry writing and bond for the purpose is vo
5. El. c. 4. Dal. 79.

Two Justices of Peace may imprison fo
yeare or lesse any servant, workman, or labo
rer, that doth make assault or affray upon
master, or any that hath the charge or overs
of them, or of the worke, being proved by
confession of the party, or oath of two. Dal.

Or the Justices at the Sessions may in
other punishment.

One Justice may bind the offender to
good behaviour, and so to the next Sessio
Dal. 79. Lam. 330. & 473.

Two Justices may compell any woma
the age of 12. and under 40. being unmarri
to serve by the yeare, week, or day, for such w
ges as they shall thinke meet, or commit her
ward till she be bound. Dal. 80. Lam. 330. 3

The retainer of any to serve in the arts
clothing, Wooll-weaver, Tucker, Fuller, Clo
worker, Sheerman, Dyer, Hosier, Taylor, Sho
maker, Tanner, Pewterer, Baker, Brewer, Gl
ver, Cutler, Smith, Farrier, Currier, Sadle
Spurrier, Turner, Capper, Hatmaker, Fe
maker, Bowyer, Fletcher, Arrowhead-make
Butcher, Cook, or Miller for lesse then a yea
is void. 5. El. c. 4. Lam. 473. Dal. 79.

"No person shall interrupt, deny, let or di
"sturb any free or rough Mason, Carpente
"Bricklayer, Plaisterer, Joyner, Hardhewe
"Sawyer, Tiler, Pavier, Glasier, Limeburner
"Brickmaker, Tilemaker, Plumber, or La
"bourer borne in the Realme, or any Den
"zen

men, to work in any of the said crafts, in any City, Borough, or Towne Corporate, with any that will retaine him or them, though they doe not inhabit, or be free there, upon paine of 5.li. the one moity to the King, the other to the Informer. 5.*Ed.6.ca.*15.

Any unmarried, or under thirty yeeres and unmarried, are compellable to serve in any of the said arts, or to be imprisoned untill they will serve, 5.*El.c.*4 upon request of any person using the said trades, except the person bee lawfully retained with some other, or have 40.shillings *per annum* in lands, or 40.pound in goods, or some farme in tillage. *Lam.*473.*Dal.*79.

None retained in husbandry to depart at his time into any other limit, towne, or parish, without testimoniall, on pain of 21.daies imprisonment, and to bee whipped, if then hee brings none; and receiver of such loseth 5.li. *Lam.*474.*Dal.*85.

Labourers not working so many houres as they ought, lose 1.d.an houre. *Lã.*474.5.*El.c.*4

Servant falling sicke, or *non potens corpore*, the master may not put him away, nor abate his wages. *Dal.*84.

Any taking worke by great, and departing unlawfully before the work be finished, loseth 5.pound, and is to be imprisoned for 2 moneth. *Lam.*474. 5.*El.c.*4.

Any taking an apprentice contrary to order of law, or exercising an art not being apprentice therein 7.yeers, loseth 10.pound. 5.*El.c.*4. *Lam.*475. *Cro.*83.a.

Servant departing into another shire, is indicted for it in the County whence hee departed;

ted; the Justices of Peace may award a C
to the Sheriffe of that shire whereunto he
parted, returnable before themselves. 5.*El.*
*Lam.*525.

The sufficiencie of the cause of the ma
putting away of his servant, or the servant
parting from his master within his terme,
be proved at the Q. Sessions. *Lam.*610. 5.
*cap.*4.

Houshold servant spoileth the goods of
deceased master, and after proclamation in
Kings Bench maketh default of appear
there; it is felony, but not enquirable by
Justices of Peace. 33.*H.*6.*c.*1. *Lamb.*281.
*Dal.*266.

A man not able nor sufficient to keep a
vant, doth retaine a servant; such retain
void. *Dal.*82.

Retainer of a servant in husbandry with
expressing any terme, shall be for one ye
*Crom.*184.a. *Dal.*83. it is according to the
tute. 5.*El.c.*4.

One retaineth a servant for 40.daies,
afterwards another retaineth him for a ye
the first retainer is void. *Cro.*184.a. *Dal.*83.

A servant cannot bee discharged by his
ster without his owne agreement, or for so
cause allowed by a Justice of Peace. *Dal.*84.

An apprentice cannot be discharged by
master but by writing, for an apprentice c
not bee but by writing. *Dalt.*85. *Crom.*184.
185.b.

A servant put away shall have his proporti
nall wages for the time he served, but it m
be by the help of a Justice of Peace. *Dal.*84.

A se

A ſervant of his owne accord departing om his ſervice, loſeth all his wages. *Dal.*84.

A ſervant refuſing to doe his ſervice, it is a eparture in law, though hee ſtay ſtill with his aſter. *Dal.*84.

Detaining of wages, or of meat and drinke, good cauſe of departure, but to bee allowed y a Juſtice of Peace. *Dal.*84. *Cro.*185.a.

A woman married after ſhee is retained, uſt ſerve out her time. *Cro.*184.b. *Dal.*82.

No ſervant in husbandry, artificer, or victu-ler, nor any labourer ſhall carry any buckler, gget, or ſword, on paine to forfeit the ſame, it for defence of the Realme, or travelling ith their maſter, or about their maſters buſi-eſſe. 12.*R.*2.*c.*6. *Cro.*185.b.76.b.

Any two Juſtices of Peace may give their onſents with the Churchwardens and over-eers, or to the greater part of them, to bind as pprentices the children of poore parents, till e age of the man-childe of 24. and of the oman till 21. 39.*El.*3. *Lam.*331.43.*El.c.*2. *al.*83.

Retainer according to ſtatute, though no wa-es be ſpoken of, is good, and ſhall have wages cording to the proclamation. *Dal.*84.

Retainer not being according to ſtatute, is id, except it be by Indenture. *Dal.*84.

Retainer upon condition is good. *Dal.*84.

Retainer without expreſſing in what office, good. *Dal.*84.

Retainer for life is good. *Dal.*84.

Retainer for a yeere to ſerve when hee ſhall e required, is not good. *Dal.*84.

By retainer the ſervant is preſently in ſer-vice,

vice, though he come not into his masters vice indeed. *Dal.* 84.

The executor (the master dying) must wages to the servant hired according to tute, not otherwise, except it be by Indent *Dal.* 84.

## Larceny.

Larceny is the felonious and fraudulent king another mans personall goods, rem from his body and person, without his will the end to steale them. *Lam.* 272. *P. R.* 129.

Personall goods are { Wholly another's / His owne, yet a property in anot

Dead goods, { In their owne nature chattels, money, plate, houshold-stuffe, *L* 273. wooll severed from the sh backes, to take the skin and leav body, the flesh of tame or wilde fo or beast. *Lambert* 275. goods of Church, Parish, or of an unkno person. *Lam.* 276.

Once no chattels, and made tels by the owner, as mowed gr mowed hay, wood felled, apple thered, &c. *Lam.* 276.

Alive, { Tame, as horses, beasts, sheep, wi pullen. *Lam.* 273. 274.

Wilde, and made tame by { Art, Restr of lib

A tame deere by common law, *Lam.* 274.

y art, as — By ſtatute a falcon, tarcelet, lanner, lanneret, loſt without bringing it to the Sheriffe to be proclaimed. *La.* 274.

By reſtraint of their liberty, as yong pigeons, young herons, young hawks out of their eſts, fiſh in a trunk, ſtew, or pond. *La.* 274.

Where hee hath given a ſpeciall propertie to another, as by bailment, pawning, &c. and felonioufly taketh it againe. *Lam.* 277. *Dal.* 270.

mans own oods, — Where one comming lawfully to the poſſeſſion, by lending altereth the propertie, as by melting of borrowed plate, and the lender taketh the metall felonioufly. *Lam.* 277. *Dal.* 270.

## In what goods Larcenie cannot be committed.

In goods of { Profit. / Pleaſure.

oods of ofit, as ere is — An owner: & they are { Reall. / Perſonal.

No owner, as treaſure trove, wrecked, ſtrayed. *Lam.* 276.

Reall are { Diſtinct from the freehold, as charter of lād or a ward. *La.* 275 / Annexed to the freehold, as pples on the tree, a tree growing, lead from a houſe or from a Church. *Lam.* 276.

Perſonall, as wild things uſing their wild neſſe, as pigeons flying, hawks not reclaimed, fiſhes in the river, *Lam.* 274. pheſants, partridges, hares, conies, herons, ſwans, or deer that are abroad. *Lam.* 275. *Dal.* 270.

Goods of pleaſure, as dogs, apes, parrats, ſinging birds, a diamond, rubie, or other ſtone not ſet in gold or ſilver. *Lam.* 27[illegible] *Dal.* 269.

Larcenie is { Grand larcenie, / Pettie larcenie.

Grand larcenie is, where the thing ſtolle is above the value of 12. pence, and is puniſhable by death. *Dal.* 262.

Pettie larcenie, if the thing ſtollen exceed not 12. pence, and is puniſhable by the diſcretion of the Juſtices before whom hee is arraigned, and forfeiteth his goods. *P. R.* 11[illegible] *Dal.* 262.

Divers pettie larcenies put in one endictment, and above the value of 12. pence, are puniſhable by death. *P. R.* 119. *Lam.* 273. *Dal.* 263.

Divers found guiltie of one larcenie above 12. pence, they all muſt die for it, for that larcenie is ſeverall in law, even as thoſe others were ſevered in act. *Lam.* 273. *Dal.* 263.

## *What acts doe amount to larceni.*

To carry away the plate delivered to [illegible] in a tavern to drink in. *Lam.* 278. *Cro.* 34[illegible] *nu.* 4. *Dal.* 263.

To carry thoſe things one is hired to carry, to another place then he was hired, a[illegible] the

there feloniously to convert them to his own use. *Lam.279. Dal.264. Cro.36.a.nu.10.*

A servant not being an apprentice to goe away with the goods of his master above 40. shill. which were in his custodie. *Lamb.279. 280. Dal.264.*

Carrier to convey away or convert to his owne use the goods after they are brought to the place appointed by the owner. *Dal. 264. Lam.279.*

He to whom the key of ones chamber door is delivered, openeth the doore and taketh away the goods. *Lam.279. Dal.266.*

A servant receiving 20. pound in gold of his master to keep, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, *viz.* money. *Dal. 265. Cro.50.a. Lam.280.*

A guest is harboured, who carrieth away his sheets out of his chamber with purpose to steale them, and is taken in the house. *Da.266 Cro.35.a.nu.2. Lam.281.*

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40. shil. or converteth them to his owne use. *Dal. 265. Cro. 50.a. Lam.281.*

A carrier embezels part of the goods committed to his charge. *Dal.264. Cro.36.a. nu.11.*

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof, and goeth away therewith. *Cro.50.a. Da.265.266.*

A servant taketh away or spoileth the

goods of his deceaſed maſter; upon default of appearance in the Kings Bench after proclamation, it is felonie. *Dal.* 266. 33 *H.* 6. *ca.* 1. *Lam.* 281.

Taking an horſe felonioufly, and apprehended before he get the horſe out of the cloſe. *Lam.* 282. *Dal.* 267.

The husband ſhall not be puniſhed for theft done by his wife, he not knowing thereof, or if after knowledge he preſently forſake her and his houſe. *Lam.* 282.

## *What acts doe not amount to larcenie.*

One having goods bailed unto him, converteth them all to his owne uſe. *Cro.* 36. *a.* nu. 11.

A carrier conveyeth the goods to another place then he was hired, and there converteth them to his owne uſe. *Lam.* 278. *Dal.* 264. *Cro.* 36. *a.* nu. 11.

An obligation or wares delivered to a ſervant, who receiveth the money or ſelleth the wares, and runneth away with the money. *Dal.* 265. *Cro.* 35 *b.* nu. 550. *a. Lam.* 280.

A wife ſtealeth goods in the company of her husband, or by his command; *quære* if it be without his compulſion. *Lam.* 282. *Dal.* 272.

A wife ſtealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larcenie in neither. *Lam.* 282. *Dal.* 272.

Goods ſtollen by an infant under 12. a lunatick during his lunacie, a mad man, and deafe

deafe and dumb. *Lam.* 282. *Vide Dal.* 273.

Riding away with a lent horſe. *Dal.* 264.

A clothier delivereth wool or yarn to his workfolks, who embezell or ſell part thereof. *Dal.* 264.

Goods delivered to another to keep, and he conſumeth them, or converteth them to his owne uſe. *Dal.* 264. *Lam.* 278.

So money or goods delivered to one to deliver to a third perſon, and the firſt receiver fleeth away with them, or converts them to his owne uſe. *Dal.* 264.

A ſervant hath a horſe delivered by his Maſter to ride to market, or money to go to a faire to buy cattel or other, or to pay to another man, and the ſervant goeth away therewith; *quære* if it be felonie by ſtatute. *Dal.* 265.

A receiver receiveth his maſters rents, & goeth away with them. *Dal.* 266. *Cro.* 50. *a.*

## 3. Leather.

Butcher that gaſheth, ſlaughtereth, or cutteth the hide of the oxe, ſteere, bull or cow, whereby it is impaired, loſeth 20. pence; or that watereth any hide except in June, July, or Auguſt, or putteth to ſale any putrified or rotten hide, loſeth for every hide 3. ſhill. 4. pence. 1 *Jac.* 22. *Lam.* 462.

Butcher uſing the ſaid craft and alſo the myſterie of tanner, loſeth every day 6. ſhill. 8. pence, *ibid.*

Tanner uſing alſo the myſterie of a ſhoemaker, currier, butcher, or any artificer uſing

the cutting or working of leather, loseth the hides and skins tanned. *ibid.*

Every person, other then such as had a tanhouse 29. *Martii* 1603. and did then occupie tanning of leather, or hath been taught as an apprentice or hired servant 7. yeares in this mysterie, or hath beene wife or son of a tanner brought up in this mysterie 4. yeares, or the son or daughter of a tanner, or such as hath married the wife or daughter of a tanner, having left to them his tanhouse and fats, that tanneth any leather, or taketh any profit by tanning, loseth all the leather tanned by him. *Lam.* 462. 463. 1 *Jac.* 22.

None may buy, contract for, or bespeak any rough hides or calves skins, but onely tanners or tawers of leather, except salt hides for the necessary use of ships, on paine of 6. shillings 8. pence for every hide. 1 *Jac.* 22. *Lam.* 463.

None shall forestall any hides comming to faire or market, (except of such as kill for the provision of their house) on paine of 6. shill. 8. pence for every hide. 1 *Jac.* 22.

None may buy tanned leather nor wrought, but such as will convert the same into made wares, (except necks, and shreds of sadlers & girdlers) upon losse of all the leather. *Lamb.* 463. 1 *Jac. c.* 22.

Tanner suffering any hide to lie in the tanlimes till the same be over-limed, or that putteth any hides into the tan-fats before the lime be perfectly wrought out of them, or useth any thing in tanning but onely Ash-bark, Oak-bark, Tapwert, Malt, Meal, Lime, Culver

Culver dung, or Hen-dung, or hath ſuffered his leather to be frozen, or to be parched with the fire or ſummer ſun, or hath tanned any rotten hides, or hath not ſuffered the hides for outward ſole leather to lie in the woozes twelve moneths, and for the upper ſole leather nine moneths, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requiſite, or hath put to ſale any tanned leather, not wrought according to the ſtatute, ſhall loſe the hides or value of them. 1 *Jac. c.* 22. *Lam.* 463, 464.

Tanner that raiſeth with any mixtures any hides to be converted to backs, bend-leather, clouting leather, or any other ſole leather, except the ſame be fit and ſufficient for that uſe, loſeth the hides. 1 *Jac. c.* 22. *Lam.* 464.

Any that putteth to ſale, exchangeth, or otherwiſe departeth with any tanned leather red and unwrought, being in open faire and market, unleſſe it be ſearched and ſealed in ſome open faire or market, or putteth to ſale any leather not ſearched and ſealed according to the ſtatute, loſeth for every hide or piece of leather 6. ſhillings eight pence, and alſo for every twelve calves skinnes or ſheep skins 3. ſhillings 4. pence, and alſo the hides and skins or their value. 1 *Jac. c.* 22. *Lamb.* 464.

Tanner putting to ſale any leather inſufficient, or not throughly wrought and tanned, or not well and throughly dryed, & the ſame ſo found by the tryers appointed, 1 *Jac. c.* 22. loſeth ſo much as is inſufficient. *Lam.* 464.

He that ſetteth his fats in tan-hils or other places where the woozes or leather to be tanned in the ſame may take any unkinde heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth 10. pound, and is to ſtand in the pillorie three market dayes. 1 *Iac. c.* 22. *Lam.* 464.

Felling oaks meet to be barked where bark is worth 2. ſhillings a load, above the charges of barking and pilling, (timber for neceſſary buildings, and reparations of ſhips, houſes, or mils excepted) but betweene the firſt of April and the laſt of June, loſeth every tree or double the value. 1 *Iac. c.* 22. *Lam.* 464, 465.

Currier that currieth any leather but in his owne houſe ſituate in a corporate or market towne, or hath curried any leather not well tanned, or not throughly dryed after his wet ſeaſon, or hath uſed in ſuch wet ſeaſon any deceitfull means to corrupt the ſame, or hath curried any outward ſole leather with any other ſtuffe then hard tallow, or leſſe of that then the leather will receive, or inner ſole leather, or upper leather but with good ſtuffe being freſh and not ſalt, or hath not liquored them throughly, or hath ſcalded or ſhaven too thin, or gaſht in ſhaving or otherwiſe, or not wrought ſufficiently any leather, loſeth 6. ſhillings 8. pence, and the value of every skinne marred, except gaſhing in ſhaving, and for ſuch gaſhing double as much as the leather is impaired. 1 *Ia. c.* 22. *Lam.* 465.

Currier

Currier that during the time that he uſeth currying, uſeth the feat of a tanner, cordwainer, ſhoemaker, butcher, or other artificer uſing curting of leather, loſeth 6. ſhil. 8. pence each hide. *ibid.*

Currier refuſing to currie within 8. dayes in ſummer and 16. dayes in winter perfectly any leather brought by any cutter of leather, or his ſervant, bringing with him good ſtuffe for perfect liquoring of the ſame, loſeth 10. ſhill. for every hide.

Shoemaker that maketh any Boots, Shoes, Buskins, Startups, Slippers, or Pantofles, or any part of them of Engliſh leather wet curried, (other then Deere, Calves, or Goats skins dreſſed like Spaniſh leather) but of leather well tanned and curried, or well tanned onely, and well ſewed with thred well twiſted, waxed, and roſined, with the ſtitches hard drawn with hand leathers, without mixing neat and calves leather in the over leather thereof; or hath put into any ſhooes, boots, &c. any leather made of ſheep-skins, bull-hide, or horſe-hide, or into the upper leather of any ſhooes, ſlippers, or pantofles, or into the nether part of boots, (the inner part of the ſhooes onely excepted) any part of the womb, ſhank, neck, flank, pole, or cheek of any hide, or into the outer ſole other then the beſt of the oxe or ſteere hide; or into the inner ſole other then the necks, wombe, pole or cheek; or in treſwels of the double ſoled ſhooes other then the flanks of any the ſaid hides; or hath put to ſale any yeare betweene the laſt of September and the twentieth of

April any ſhooes, boots, &c. meet for any perſon above foure yeares old, wherein hath been any dry Engliſh leather, other then calves or goats skinnes dreſſed like Spaniſh leather; or hath ſhewed for ſale any of his wares upon Sunday, loſeth 3. ſhill. 4. pence for every paire, and the juſt value. 1. *Iac. cap.* 22. *Lam.* 465, 466.

Every lord of faire or market, that doth not appoint and ſweare yearely two or three honeſt and skilfull men to be ſearchers and ſealers of leather there, and fixe honeſt and expert men to try the ſame leather, loſeth 40. pound. *Lam.* 466. Such triers as doe not their duties therein without delay, loſe 5. pound for every default. *Lam.* 467.

Searcher or ſealer ſo appointed, refuſing with ſpeed to ſeale good leather, or allowing inſufficient leather, loſeth 40. ſhillings; or receiving any bribe or exacting any undue fee for execution of his office, loſeth for every offence 20. pound; or refuſing to execute the ſaid office being duly elected, loſeth 10. pound. *Lam.* 467.

Hee that will not ſuffer a ſearcher to enter into any place to ſearch tanned leather, or wrought wares, or to ſeize or carry away that which is inſufficient, or hath put away any tanned leather red and unwrought, without regiſtring the ſame and the price thereof, loſeth the value of the leather. *Lam.* 467. 1 *Iac. c.* 22.

Leets.

Steward of a leet cannot grant suretie of the Peace, unlesse it be by prescription; but he may commit him to ward that shall make an affray in his presence whilest he is in execution of his office, or binde him to his good behaviour. *Lam.* 14.

Hee may also take presentment of an offence against the Peace. *ibid.*

« In every leet or market, there ought to « be a Pillorie and Tumbrell, and for want « thereof the Lord of the Leet or Market « shall make a fine to the King. *Dal.* 151. *Cro.* 149.

## Lent, *vide* Fish dayes.

## Liberties and Franchises.

« Liberties and Franchises be such which « have returne of Writs, and not such as are « Counties of themselves, as London, York, « Norwich, &c. nor townes which have by « grant of the K. Just. of P. so that no other « Just. do intermeddle. *Cro.* 8. *a.* nu. 30. *Dal.* 23. « 2. *&* 3. *P. & M. c.* 18.

Justice of Peace may execute his authoritie within any liberties, not being a countie within it selfe, and it is good, but the libertie may have their remedy against him. *Lam.* 47, 48. *Dal.* 23. *Cro.* 8. *a.* nu. 30. 181. *b.* 189. *a.*

## Libellers.

A man finding a Libell against a private man, must presently burne it, or deliver it

it to ſome Magiſtrate. *Dal.* 195.

If againſt a Magiſtrate or publique perſon, to deliver it to ſome Magiſtrate, that by examination the author may be found out. *Dal. ibid.*

Libellers (it ſeemeth) may be bound to their good behaviour as diſturbers of the Peace, whether they be contrivers, procurers, or publiſhers of the libels; for ſuch libelling and defamation tendeth to the raiſing of quarrells and effuſion of blood, and ſpeciall occaſions to the breach of the peace. *Dal.* 194.

Libelling is by ſcandalous writings, by book, ballad, epigram, or rime; 2. by ſcandalous words, as ſcoffes, jeſts, taunts, or ſongs; 3. by hanging up of pictures or ſignes of reproach, neere the place where the partie traduced doth converſe moſt, as gallowes, cucking-ſtoole, pillorie, hornes, or ſuch like. *Dal.* 194. *Cook* 5. *fo.* 125.

## Licenſes.

Two Juſtices of the Peace may licenſe poor diſeaſed perſons to travell to the Baths for remedie of their griefe, ſo as they be provided of reliefe for their travell, and beg not. 39 *El. c.* 4. *Dal.* 101. *Lam.* 332. 1 *Iac. c.* 25.

Juſtice of P. dwelling neere where any perſon having ſuffered ſhipwrack ſhall land, may and ought to make a teſtimoniall under his hand to ſuch perſons of the landing, &c. and thereby to licenſe them to paſſe the next direct way to their place of birth or dwelling,

ling, and limit them a convenient time for their paſſage. *Dal.* 100. 127. *Lam.* 303. 39 *El.* c. 4. 39 *El.* c. 17. 1 *Iac.* c. 25.

No Juſtice or Juſtices of Peace (as it ſeemeth) can in any caſe licenſe any poore man to wander, or beg at all. *Dal.* 101. 127. *Lam.* 303. 39 *El.* 4. c. 17.

Convicted for abuſing of a licenſe of tranſportation of victuall, ſhall be committed for a yeare without baile or mainpriſe. *Lam.* 349. 1. & 2. *P.* & *M.* c. 5.

Licenſes for badgers, drovers, &c. are to be granted in open Qu. Seſſions by three Juſt. of P. whereof one of the Quo. and ſhall not endure above a yeare, unleſſe the ſame be yearly renewed. 5. & 6. *Ed.* 6. c. 14. 5. *El.* c. 12. *Lam.* 610. *Vide* Badgers.

## Linnen cloth.

Hee that cauſeth to be uſed any racking, beating, or caſting any deceitfull liquor, or other meanes on any kind of linnen cloth, whereby it becommeth deceitfull, or the worſe for uſe, forfeiteth ſuch cloth, and is to have impriſonment for a moneth at the leaſt, and to be fined according to the Juſtices diſcretion. 1 *Eliz.* 12. *Cro.* 90. a.

## Lying in a way, *vide* Way-lying.

## Log-wood, *alias* Block-wood.

Suſpected to have offended againſt the ſtatute for log-wood, upon information to a Juſtice

Justice of Peace, the suspect or his servant or workman may be called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examinates shall bee bound over to the next gaol-delivery or Qu. Sessions, and there be judged to forfeit 20. pounds, and pillorie one or more market dayes, or upon refusall to be bound to be committed to the gaol till he will be bound. 39 *El.c.*11, *Lam.*613. *Dal.*48.

Any two Justices of the Peace, where any log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned. 23 *El.c.*9. *Dal.*48. *Cro.*198.*b*.

## Long bowes.

« Any above the age of 24. yeares shoot-« ing at standing pricks under eleven score « yards with any prick shaft or flight loseth « 6. shillings 8. pence. 33 *H.*8.*c.*9. *Lam.*481.

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## Masons.

THe causing of masons to congregate themselves in chapters, is felonie. *La.* 227. 3 *H.*6.*c.*1.

## Mainprise, *vide* Baylement.

## Maintainers and Embracers.

Maintainers and embracers of a Jurie enquiring

quiring of a riot, forfeit twentie pounds, and to be committed to prison, and to remain according to the discretion of the Justices. 19. *H.7. cap.13.*

The Justices which shall sit upon the inquisition of riots with the Sheriffe or undersheriffe, ought to certifie the names of the maintainers and embracers of a Jurie, with their misdemeanours which they know, by which the truth of the said riot is not found, upon paine of 20. pound for every one that hath not a reasonable excuse. 19 *H.7.ca.* 13. *Cro.199.b.*

Maintainers of quarrels and embracers of Jurours are to be imprisoned, and bound to the good abearing. 33 *H.8.c.*10. 37 *H.8.c.*7. *Lam.*440.

Maintenance is where any man giveth or delivereth to another that is plaintiffe or defendant in any action, any thing to maintain his plea, or else maketh extreame labour for him where he hath nothing to doe therewith. *Termes of the Law.*

Embracer is hee that when a matter is in tryall betweene partie and partie, commeth to the barre with one of the parties, having received some reward so to doe, and speaketh in the case, privily laboureth the Jurie, or standeth there to survey or overlook them, thereby to put them in feare and doubt of the matter: but men learned in the law may speake in the case of their Clients. *Terms of the Law.*

Maim.

He that hath maimed another of any member, whereby he is leſſe able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by ſome wound the ſinews be made ſhrink, or other member or the fingers made crooked, or if any eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans bodie, by means whereof hee is made the leſſe fit to defend himſelfe, or offend his enemy, he and his acceſſaries ſhall be grievouſly fined. *Lam.* 429. *Term of Law.*

Juſtices of Peace cannot upon an endictment of maim, make the tryall by their owne view and inſpection, as the J. of the K. Bench may doe. *Lam.* 532.

If Juſtices of Peace ſtand in doubt whether the hurt be a maim or not, they may uſe the help and opinion of ſome skilful Chirurgeon to conſider thereof. *Terms of Law.*

« Indictment of maim muſt be *felonicè ma-*
« *hemavit.* *Cro.* 101. *a.* nu. 3.

## Malt.

If any Bailiffe or Conſtable of any borough or other towne ſhall finde any malt made contrary to the ſtatute, 2. & 3. *E.* 6. 16. & 27. *Eliz.* 14. then with the advice of any Juſtice of the Peace within the ſhire, he ſhall cauſe the ſame to be ſold to ſuch perſons, and at ſuch reaſonable prices under the common price of the market, as to their diſcretion

ſhall

shall seeme convenient. *Lam.*262. *Dal.* 86. 21 *Iac.c.*28.

Any two Justices of the Peace may duly convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of malting made in open Q. Sessions, and shall commit him to prison without baile or mainprise for three dayes, untill hee become bound in forty pound to performe such restraint. 39 *El. c.* 16. *Lam.* 332, 202. *Dal.*86.

The Justices of Peace or the greater part of them, may in open Qu. Sessions restraine the converting of barley into malt. 39 *El.c.*16 *Lam.*613. *Dal.*86.

Malt must be 3. weekes in the fat, on the floore steeping and drying, except in June, July, August, and then 17. dayes, or lose 20 pence for every quarter. *Lam.*451. *Dal.*87.

No insufficient malt mingled with good malt must be put to sale. 2. & 3. *E.6.c.*16. & 27. *El.c.*4. *Lam.*452. *Dal.*87.

No malt shall be put to sale that is insufficiently trodden, and out of which for every quarter hath not beene fanned one peck of dust. *ibid.*

## Manslaughter, *vide* Homicide.

## Mariner.

Mariner comming from beyond the seas, or a seafaring man having suffered shipwrack, and in want, may be licensed by the next Justice of Peace to his landing, to aske reliefe in his journey homewards. 39 *Elizab.* 4.

*Lam.*

*Lam.* 303. *Dal.* 127. 1 *Iac. cap.* 28.

No fiſher man to be taken for a mariner by the Kings commiſſion, unleſſe choſen by the two next Juſtices to the place where he is to be taken. 5 *El.* 5. *Lam.* 359. *Dal.* 87.

Mariner departing from his Captain without licenſe, or wandring idly without, or with a forged licenſe, knowing thereof, is a felon. 39 *El.* 17. *Lam.* 227.

Any poore Mariner or Souldier comming from beyond the ſeas, that ſhall repaire to his place of birth, &c. and cannot there get work, two Juſtices of the Peace next adjoyning may take order to ſet him to work, and for want of work taxe the whole hundred for his reliefe, till ſufficient work may be had. 39 *El.* c. 17. *Lam.* 359. *Dal.* 138.

« Mariner forging a Teſtimoniall, or carrying the ſame, knowing it to be forged, « it is felony. *Lam.* 228. *Dal.* 289. 39 *El.* c. 4. « & c. 17. 1 *Iac.* ca. 7.

« Mariner landing and not having a Teſtimoniall under the hand of ſome Juſt. of « Peace, neere the place of his landing, ſetting downe, 1. the time and place of his « landing, 2. the place to which he ſhould « paſſe, 3. and the time for his travell, 4. or « exceeding that time fourteene dayes, it is « felony. 39 *El. cap.* 17. *Dal.* 289. *Lamb.* 303. « But if he have ſuch a Teſtimoniall, and « purſue the ſame, he may ask and take ſuch « neceſſary reliefe as ſhall be given him. 39. « *Eliz. cap.* 17. *Lam.* 303.

*Vide* Felony by Statute.

Market

He that is owner, &c. of any faire or market where horſes, geldings, mares, or foles are to be ſold, and doth not yearly aſſigne one open place where the ſaid horſes, &c. ſhall be ſold and one to take Tol, who ſhall continue there from 10. in the morning untill ſun ſet, forfeiteth 40. ſhil. for every day. 2. & 3. *P. & M. c.* 4. *Cro.* 91. *a. Lam.* 471.

To alter the property of any ſtrangers rights in horſes and all other goods, they are to be ſold in ſuch a place or ſhop as is commonly uſed for ſelling goods of the ſame kind. *Dal.* 74.

Sale in faire or market doth not take away the owners propertie, the buyer knowing that it was anothers. *Dal.* 74.

*Vide* Horſes.

## Marriage.

If any married perſon marrieth another, the former wife or husband being alive, except the husband or wife have beene beyond the ſeas ſeven yeares together, or hath beene abſent within the Kings dominions 7. yeares together, the one not knowing the other to be alive, or was at ſuch marriage lawfully divorced, or the former marriage by ſentence eccleſiaſticall declared to be void, or was had within years of conſent, it is felony, 1 *Iac.* 11. *Lamb.* 421. *Dal.* 289. *Cro.* 52. *a.* without corruption of bloud, loſſe of dower, or diſinheriting any heire.

Maſſe.

To ſing Maſſe, forfeiteth 200. marks and a yeares impriſonment. To heare it, forfeiteth 100 marks and like impriſonment. 23 *El.c.*1. *Lam.* 413.

For the diſcovery of any who hath been at Maſſe, *vide* Jeſuites.

## Maſter, *vide* Servant & Labourers.

## Meaſure, *vide* Weight.

## Meſſages falſe.

Two J. of P. one being of the *Quorum*, may (as it ſeemeth) binde over to the next Qu. Seſſions any ſuſpected of getting money or other thing by falſe tokens or counterfeited letters, or may impriſon ſuch, or baile them to the next Q. Seſſions. *Dal.*47. 33 *H.*8.*c.*1. *Vide plus* Cozenage.

## Milch Kine, *vide* Calves.

## Minſtrels, *vide* Rogues.

## Miſpriſion.

Miſpriſion is properly, where one knoweth that another hath committed treaſon, or felony, but was not conſenting thereto, and will not diſcover the offender to the K. or his Councel, or to ſome magiſtrate, but conceals the offence. *Dal.*234. *Stam.*37. *T. of Law*, 131.

A Chaplain fixed an old ſeale to a new Patent of non-reſidencie, it was holden miſpriſion of Treaſon. *Term of Law*, *ibid. Dal.*229.

Knowing money to be counterfeit, and bringing

bringing it out of Ireland into England and uttering it in payment, is misprision of treason. *Term of Law, ibid. Cro. 44. b. Stamf.* 38. 3 *H.*7. 10.

For misprision of felony he shall onely be fined. *Dal.*234. *Term of Law, ibid. Cro.* 44. *a.*

## Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgement. *Dal.*231.

To strike a Juror in presence of the Justice sitting in place of Judgement. *Dal. ibid.*

To strike one in Westminster Hall, any of the Kings Courts sitting. *Dal. ibid.*

*In all which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason. Dal.*234.

A stranger rescuing one arrested by a Justice upon an affray sitting in place of justice, whereby he escapeth, is misprision of Treason. *Dal.*231.

For offenders in high treason, misprision of treason, *Præmunire*, though J. of P. cannot meddle in the very point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing material, & put it in writing under the hands of the informers, & commit the offenders to gaole, and binde over those which prove anything material to appear before the Lords

Lords of the Councell, or elſewhere to give evidence upon reaſonable warning, and to certifie their doings to ſome of the Lords of the Councell or elſewhere. *Dal.* 235.

Willingly to aid and maintain, or knowing ſuch as have abſolved, perſwaded, or withdrawn any within the Kings dominions from their obedience, or Religion now eſtabliſhed, to the Romiſh Religion, or moved them to yeeld obedience to any other eſtate, or practiſed to doe any of them, and doth not within 20. dayes diſcloſe it to ſome Juſtice of the Peace, or higher officer, it is miſpriſion of treaſon. 23 *El.c.* 1. *Lam.* 412.

Within 6. weeks after any Bull or other inſtrument of reconciliation hath been offered, not to reveale it to ſome of the privie Councell or Preſidents of the North, or Wales, is miſpriſion of treaſon. 23 *El.ca.* 1. *La.* 413.

## Miſpriſion of Felonie.

He that ſeeth one killed by another, or robbed, or any other felonie committed, and is not of their confederacie, and doth not make reſiſtance, or diſturb the felon, or levye hue and cry, but conceale the ſame, it is miſpriſion of felony, and fineable. 14 *H.* 7. *c.* 31. *Cro.* 44. *Dal.* 296.

A man foreknoweth of a felony to be done, and concealeth it, and it is effected; it is miſpriſion of felony *quære Cro.* 41. *b.* nu. 5. *Da.* 298

« Every treaſon or felony doth include « miſpriſion, ſo that where any hath com- « mitted treaſon or felony, the King may cauſe

cause the offender to be indicted and arraigned but of misprision. *Cro.* 44. b. *Dal.* 234. *Stamf.* 37. d.

## Mitigation of fines and forfeitures, *vide Lamb.* 577.

## Mittimus.

*Mittimus* must containe the names of the parties, their offences, and time of enprisonment, that it may appeare whether the Prisoner be bayleable or not, *Lam.* 297. *Cro.* 153. a. nu. 11. *Dal.* 319 396.

If one bee committed without baile or mainprise, and the cause is expressed in the *Mittimus*, and yet is baylable, other Justices of the Peace may baile him: yet *Quere*, seeing their authoritie is equall. *Dal.* 319.

## The forme of the *Mittimus*.

To send felons to the Gaole. *Lamb.* 220. *Dal.* 394.

To send rioters to the Gaole, *Lam.* 321.

To send shooters in peeces, *Lamb.* 297. *Dal.* 398.

To send upon forcible entry, &c. *La.* 150.

To send to the house of Correction, *Dal.* 396.

To send an Ale-seller without licence, *Dal.* 387.

To send a reputed father of a bastard, *Dal.* 391.

Monasteries,

Monasteries, *vide* Religious houses.

## Mortuaries.

Spirituall person not to take mortuary or any thing for them, where they have not beene used to be payed, or where the goods of the dead are under 10. marks; taking above 4. shil. 4. pence where the goods are under 30. pound, or above 6. shill. 8. pence where they are above 30. pound & under 40. pound, or above 10. shill. where they are above 40. pound, he shall forfeit all taken above due, and 40. shillings to the party grieved. 21 *H.* 8. *ca.* 6. *Lam.* 435, 436.

## Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felonie. 5 *H.* 4. *c.* 4. *Lam.* 425.

## Murder.

Murder is when one man upon malice prepretended, prepensed, or precedent, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the partie slaine be English or alien. *Lam.* 237. *Cro.* 21. *a.* nu. 1. *Dal.* 241. 239.

The killing shal have relation to the death and not to the stroke. *Cook* 4. 42. *Cro.* 21. nu. 1.

Malice is { Expressed, or Implyed, } { *Cro.* 21. *a. Dal.* 24 *Lam.* 239.

Mali

Malice expreſſed is when it is knowne that here is malice betwixt them, *Cro.21.a.* and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed. *Dal.241. La.238.*

Malice implyed is when one is killed ſuddenly without defence. *Dal.241. Cro.21.a.* nu.2.

As where one killeth another without provocation. *Lam 239. Dal.241.*

One buſied, as reading, going over a ſtile, &c. killed. *Cro.27.a.nu.20. Dal.241.*

One ſtabbed, not having weapon drawne. 1 *Jac.8.*

To kill an officer known, in executing proceſſe. *Dal.ibid.*

To kill an unknowne officer, if he ſhew his warrant, and if an officer hath the Kings writ or lawfull warrant, though it be erroneous, and ſlain in executing it, is murder. *La. 240. Dal.241.*

To kill any magiſtrate or miniſter of Juſtice in executing his office, or in keeping the peace. *Dal.242. Cro.25.b.nu.51.*

A rioter killeth an officer or an aſſiſtant comming to ſuppreſſe a riot, it is murder in all the rioters. *Cro. 23.b. num.28. Lam.241. Dal.242.*

A Conſtable parting an affray, or any of his company comming to aid him, although it was ſuddenly and in the night. *Cro.25.a. nu. 51. Dal.241.*

A theefe killing a true man in reſiſting, is murder of malice prepenſed. *Lam.241. Dal. 241. Cro.22.a.nu.13.*

1 A man carryed his sick father into
frost, whereby he dyed. *Lam.*240. *Dal.*24

2 An harlot hid her child and covere
with leaves, and a Kite struck it and kil
it. *Dal.*242. *Lam.*240.

3 The owner knoweth his beast to be
customed to hurt and doth not tye him
and after the beast killed a man. *Lam.*
*Dal.*242.

*In these three cases* voluntas reputabi
pro facto, *for it sheweth that they had a*
*to hurt, and the will doth amount to malice,* I
*ibid. and so to murder.*

One having malice against another, assa
teth that other, and after flyeth to the w
and then killeth that other; it is murder,
« he slew him in the said malice wherein
« did assault him. *Lam.*239.

One condemned to die is killed by a p
vate person without warrant, or by the
cer contrary to the judgement; it is murd
*Lam.*240.

Prisoner killed by his gaoler by over h
keeping, it is murder. *Lam.*240.

One commandeth his servant to bea
man, who beateth him so that he dieth th
of; it is murder in the commander. *Dal.*
murder in both, if it be in the comman
presence. *Lam.*241.

Many come to doe an unlawfull act, a
one in doing thereof killeth a man; it is mu
der in all, although they did but look on. *D*
245,253. *Cro.*22.*a.*nu.10. 24.*b.*nu.43. *La*
241. *Stam.*40. If they be not present, ye
they be in the same house, or upon the sa
grou

round, it is murder in all. *Dal.* 245. *Cro.* 25. nu. 5. *Lam.* 241.

All preſent and aiding, abetting or comforting another to doe murder, are principals. *Dal.* 245. *Lam.* 243. *Cro.* 22. *a.* nu. 15.

Two appoint the field and meet, and bring company with them, and one of them is ſlain; it is murder in all that came with the murderer. *Dal.* 245.

Murder is intended to one, and he killeth another, it is murder. *Lam.* 243. *Dal.* 244.

*A.* woundeth *B.* in fight, and after they meet ſuddenly and fight; if *B.* kill *A.* it is murder, for it is intended malice upon the former hurt; but if *A.* kill *B.* it is but manſlaughter, for the hurt did appeaſe his former malice. *Lam.* 251, 238. *Dal.* 243.

Two in ſuit meet and quarrell, and the defendant killeth the plaintife; *quære* if it be murder. *Dal.* 244.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both. *Dal.* 244. *Lam.* 242.

The owner rebuked one ſtealing his pears, who killed the owner; it was adjudged murder. *Dal.* 245. *Lam.* 241. *Cro.* 24. *a.* nu. 34.

Poiſoning of another wilfully whereby he dieth, is and was murder by the common law. *Dal.* 244.

The party poiſoned muſt die within a year and a day after the receiving of the poiſon. *Dal.* 246.

After the beating or hurting another, to make murder, or other homicide, the year and the day is reckoned from the

ſtroke given. *Dal.*246. *Cro.*23.*b.*nu.54.

An appeale hath relation to the death. *ibi*

A woman delivered of a baſtard, endevo
ring privately either by drowning or by ſe
cret burying to conceale the death thereo
as that it may not come to light, whether
were borne alive or dead, but be conceale
ſhall ſuffer death as in caſe of murder, exce
ſhe make proof by one witneſſe that the chi
was borne dead. 21 *Jac.ca.*27.

Juſtices of Peace may take Endictment
murder as of murder. *Lam.*493.

« A man hath a horſe that wil ſtrike ſuch
« come neere him, his maſter knowing it,
« deth among people, the horſe killeth a m
« it is felony in the maſter. *Dal.*242. *In*
« 239. *Cro.*24.*b.*nu.45.

"Indictment of murder muſt expre
"have *murdravit*, for *ex malitia præcogit*
" & *voluntate*, & *felonicè interfecit*, is not
"ficient. *Cro.*101.*a.*nu.4.

## Muſters.

Convicted before the Juſtices of Peace
offence againſt the ſtatute of muſters, ſha
impriſoned 10. dayes without bail, unleſs
pay the forfeiture being 40 s. which is for
ſence without reaſonable excuſe, or not ſh
ing his beſt furniture being commanded. 4
5. *P.* & *M.c.*3. *Lam.*349, 482.

The partie that ſueth upon the ſtatute
muſters, is to recover the forfeiture belo
ing unto him by action, or bill of debt. *ib*
*Lam.*583.

Na

THe names and ſirnames of the party indicted muſt be certainly expreſſed; and if the indictment be of an acceſſary in felony, the name of the principall muſt be ſet down alſo. *Lam.* 488. *vide* Additions.

Nets, *vide* Hunting, Partridges and Pheaſants.

## News.

Contriver, ſpeaker, or teller of falſe or counterfeit news, whereof diſcord, &c. may ariſe betwixt the King and his Nobles, or any other falſe news, lies, or other falſe things of Prelats, Dukes, Earls, & Barons, &c. whereof diſcord & ſlander may ariſe within the realm; ſhall be impriſoned till he find out the author; and if he cannot find him, ſhall be puniſhed by the advice of the Councel. *Weſt.* 1 3 *Ed.* 1. *c.* 33. 2 *R.* 2. *c.* 5. 12 *R.* 2. *c.* 11. 1 & 2. *P.* & *M.* *c.* 3. *Dal.* 326.

## Next Juſtice.

Where the Statute of 13 *H.* 4. *c.* 7. willeth the Juſt. of Peace moſt nigh in every County, where ſuch riot or rout ſhall be, to do execution of the ſtatute under pain of 100. pound, if any other Juſtices, that be not next unto the place ſhall execute the ſtatute, it will excuſe the next, becauſe all have power alike, by the firſt part of the ſtat. *Lam.* 326, 327. *Dal.* 11. *P.* *R.* 30.

Night-walkers, *vide* VVatches.

A Nobleman's promiſe to keep the Pea
hath beene held ſufficient. *Dal.*165. *La*
81, 82.

A Juſtice of Peace may not grant warra
of the Peace againſt a Lord of the Parli
ment. *Dal.*165.

Nor againſt a Dutcheſſe, Counteſſe, or B
roneſſe; for they are Peers of the Real
and ſhall be tryed by their Peers, and ha
the ſame priviledges that Dukes, Earls, a
Barons have. *Dal.*166.

Dutcheſſe, Counteſſe, or any Noble
birth, marrieth with a gentleman, ſhe loſe
not her name of dignity: but if ſhe be ma
"noble onely by marriage, and her husba
"dying, marry a Gentleman, ſhe loſeth h
"dignity. *Cro.*110. *a. Dal.*166. *Vide* Clerg
that a Nobleman may have his Clergie
any felony, except wilfull murder and po
ſoning.

"None are noble under the degree of
"Baron. *Lam.*539.

## Non ſanæ memoriæ.

There be 3. ſorts of perſons, *Non ſanæ me*
*riæ*, or *non compotes mentis*. *Dal.*248.

1 A natural foole, who is ſo from his birt

2 He that was once of ſound memory, a
after by ſickneſſe, hurt, or other accident
viſitation of God loſeth it.

3 A lunatick, *qui gaudet lucidis intervall*
and ſometimes is of good underſtanding, a
ſometimes is not *compos mentis*.

Nuſans

Every man may in a peaceable manner assemble a meet company to doe any lawfull thing, or to remove or cast down any common nusans. *Dal.224. Cro.66.a.nu.64.*

One is indicted of Nusance and acknowledgeth it, infinite distresse shall go to the Sherife to remove it, and he shall not be received to his fine till the Sherife returne that it is removed. *Cro.186.a.*

## Obedience to the King.

IF any practise to absolve, perswade, or withdraw any from their naturall obedience to the King, or (for that intent) from the religion now established here, to the Romish religion, or to move them to promise obedience to the See of Rome, or other estate, or if any have beene willingly so absolved, or have promised such obedience, it is treason. *23 El. c.1. Lam.412. Cro.18.a.*

## Colore officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a vaile to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem. Cro.57.b.nu.2.*

## Ordinarie.

His Fees, *vide* Fees.

The Ordinarie oweth not his attendance at the Sessions of the Peace, as hee doth at the gaol-delivery. *Lam.395,396.*

« The Court may allow Clergie in ſtrict-
« neſſe of Law, though the Ordinary or his
« deputy be not there. *Cro.* 118. *b.* nu. 44.
« *Stam.* 133. *a.*

« A felon adjudged to be hanged in fayling
« to reade may in favour of life have the be-
« nefit of Clergie at the gallowes. By which
« it appeareth, that the Ordinaries preſence
« is not of neceſſity. But this is intended,
« where the Felon is adjudged in the Kings
« bench, not at the Aſſiſes, for their Com-
« miſſion endeth with their Seſſions, but be-
« fore Juſtices of P. it ſeemeth he may have
« his Clergy at the Gallowes, for their com-
« miſſion continueth, and may allow Clergy
« without an Ordinary. *Cro.* 119. *a* nu. 54 56.
« *Stam.* 132. *b.* yea one repryed may pray his
« Clergy at the next Aſſiſes, *Cro.* 161. nu. 56.
« The Judges are Judges of the Clerks rea-
« ding, and not the Ordinary. For if the Or-
« dinary ſay that he readeth, and cannot, he
« ſhall be hanged, & the Ordinary fined. *Cro.*
« 119. *a.* nu. 49. *Vide plus* Clergy. Extortion.

## Oath.

You ſhall ſweare that the ſurety of the Peace, which you require againſt *A.B.* is not of any malicious intent, for vexation, but for very feare, and for the needfull preſervation of your body and goods in ſafety; ſo help you God. *Lam.* 83.

Oath of the Juſtices of Peace, *vide Dal.* 13.

Oath of ſupremacie, *Dal.* 14.

« Oath of Conſtables and Churchwardens
« is to be inlarged. *vide* Tiplers.

Oath

Oath of Allegeance. *Dal.* 15. 3 *Jac. c.*4. 7 *Jac. c.*6.

The *Custos Rotulorum* or any two Juſtices of the Peace, one being of the Quorum, may take the oathes of Under-ſheriffes of their Countie, their Bailiffes, Deputies, Clerks, or under-officers, before they ſhal exerciſe their ſaid offices. *Dal.* 138. See 27 *El. c.* 12. the forme of the oath.

*Quære* if Juſtices of the Peace may examine upon oath ſureties of their ſufficiencie. *Dal.* 171. Juſtices of Peace in their Seſſions may doe it. *Cro.* 194. *a. Br.* impriſonment 18.

Default of Underſheriffes, their Clerks, Bayliffes, &c. in not taking their oathes for execution of their office, is to be heard and determined at the Quarter Seſſions, 27. *Eliz. c.*12. *Lam.* 615.

Under-ſheriffes, Bailiffes, &c. doing any thing contrary to their oathes, loſe to the partie grieved treble damages. 27 *El. c.* 12. *Lam.* 433.

Where the refuſer of the oath of Allegeance ſhal incur a *Præmunire*, *vide Præmunire.*

Refuſer of the oath of Allegeance is diſabled to execute any place of judicature or office, being no office of inheritance or miniſteriall function, or practiſe of the Law Civill or Common, or the ſcience of Phyſick, Surgery, or the art of Apothecary, or any liberall ſcience. 7 *Jac. c.*6.

One Juſtice of Peace to whom complaint is made, may commit to the gaole without baile till the next Aſſizes, gaol-delivery, or Qu. Seſſions, any above the age of 18. years

(under a Baron or Baroneſſe) which ſtand preſented, indicted, or convicted for not comming to Church, or not receiving the Communion, or which by the Miniſter, petie Conſtable, and Churchwarden, or any two of them, ſhall be complained of to any Juſtice of the Peace, and by him ſuſpected, may by « ſuch Juſtice be required to take the oath of « allegeance, and may be committed without « bayl til the next Aſſiſes, for refuſing the oath of allegeance. 7 *Jac. c.* 6. *La.* 199. *Dal.* 82. 107.

Two Juſtices of the Peace, one being of the Quorum, may require any perſon of the age of 18. or above, under the degree of a Baron or Baroneſſe, to take the oath of allegeance, and on refuſall to commit him to the gaol without bayle, till the next Aſſizes or Q. Seſſions. 7 *Jac. c.* 6. *Lam.* 363.

Where the examination of a Juſtice of P. is the conviction of the party, there it ought to be upon oath: but where it is but to informe the Jurie upon the indictment, it needeth not. *Lam.* 536. *Dal.* 159. Though the ſtatute doth not expreſly ſay it ſhall be upon oath. *Dal. ibid.*

In caſes of felony it ſeemeth convenient that the information be upon oath, otherwiſe the examination ſhall not be given in evidence. For

If the examinate die before the tryall, the examination may be evidence; without oath many will ſpeak coldly. It is the practiſe of the Courts in Weſtminſter. *Dal.* 307. & 308. *Cro.* 194. *a.* nu. 5. *Lam.* 213, 214, 215. *Br.* Examination 32.

The

The refusing the oath of allegeance required by two Justices of the Peace, and the taking of the same and oath of supremacie by a conformed Recusant returning into England, are to be certified at the next Qu. Sessions. *7 Iac. c. 6. Lam. 362, 363. 616.*

The oath of allegeance being required at the Q. Sessions of such as formerly refused the same, and being there tendered & refused, the refusers (other then Noblemen and women) incurre *Præmunire*, except women covert, who are to be sent to the gaol without bayle. *Lamibid.*

Orchyards and Gardens, *vide* Hedge-breakers.

## Overseers of the Poore.

« Overseers for the poore for every parish « are to be nominated yearly in Easter week, « or within a month after, by two Just. of P. « one being of the Quorum, under their « hands and seales, dwelling in or neere the « parish. 43 *El. c. 2. Lam. 360. Dal. 91.*

« Overseers and Churchwardens with two « such Justices, may set to work, children of « such as are not able to keep them; and all « marryed and unmarryed which have not « means to maintaine them; And may raise a « weekly stock or otherwise by taxation of e- « very inhabitant and dispose thereof. *ibid.*

« Overseers and Churchwardens (not let- « ted by sickneſse or other just excuse allow- « ed by two such Justices) shal meet monthly « in the Church upon Sunday after Eve-

ning

« ning Prayer, to conſult about ordering of « the Poor, or forfeit xx.s. a piece. 43. *El. c.* 2.

« Any finding himſelfe grieved with the « taxation made by the Overſeers, &c. or by « the Juſtices, may have remedy at the Qu. « Seſſions. 43 *El. ca.* 2.

« In diſability of the pariſh, the two Juſt. « may tax any other pariſh within the hun- « dred. If the hundred be not ſufficient, the « greater part of the Juſtices of Peace in « other Seſſions may rate other pariſhes. « 43 *El. c.* 2.

« Overſeers and Churchwardens either « preſent or ſubſequent may by warrant of « two ſuch Juſtices levy all ſums and arera- « ges of any refuſer by diſtreſſe and ſale of « his goods. In default of diſtreſſe, two ſuch « Juſt. may commit him without bayle till « payment made. 43 *El. c.* 2.

« Overſeers may be committed till they « doe accompt. 43 *El. c.* 2.

All to whom the overſeers by 43 *Eliz.* 2. may binde apprentices, may take and keep them as apprentices, and the overſeers may with the aſſent of two Juſtices of Peace, one being of the Quorum, in their reſpective limits where there be more then one, or by aſſent of one Juſtice of Peace where there be no more, ſet up, uſe and occupy any trade, myſterie, or occupation, onely for ſetting poore of the pariſh on worke wherein they are overſeers. 3 *Car. cap.* 4. *Vide* Poore.

Pannell, *vide* Jurors.

Pardon.

AT the Common Law before the ſtatute of 13 *R.* 2. *ſtat.* 2. *c.* 1. a pardon of all felonies was good for murders, and ſo for petie treaſons. *Lam.* 561.

Pardon of all felonies is not good for murder or petty treaſon, except the pardon be with a *non obſtante*, or that murder be therein expreſly mentioned. *Dal.* 246. *Cro.* 21. *b.* nu. 7.

But it is good for acceſſaries, both before and after.

A pardon of all felonies will not diſcharge a man that is attainted of felony, except the execution and attainder be pardoned. *Cro.* 115 *a.* nu. 1. *Lam.* 562. *Dal.* 245.

Breaker of the Peace after the Pardon, forfeiteth the Pardon, and may be hanged notwithſtanding his pardon. *Cro.* 115. *b.* nu. 16. *Dal.* 247.

The King onely can pardon treaſon, murder, or other felony, or any acceſſary thereunto. *Dal.* 247.

Generall pardon is that which is given by act of Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it nor accept the benefit thereof. *Lam.* 559, 560. *Cro.* 115. *b.* nu. 13.

Pardon of abjuration is not good without ſpeciall words of abjuration. *Lam.* 562.

*Quære* if a generall pardon for pety treaſon availe him that is indicted of murder, without the word *proditorie*. *Lam.* 560.

A generall pardon (comming betwixt the ſtroke and the death) of all miſdemeanours, will availe for the death. *Lam.* 560.

*Quære.*

*Quære* if a pardon of all offences (except persons outlawed of murder) will availe one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry. *Lam.*560. *Cro.*116.*b.*nu.17.

Pardon of attainder and execution for felony is not good for felony, without words « to pardon the felony it selfe. *Lam.*562.

Pardon of a Gaoler for escapes of felony and traitors, is not good for voluntary escapes. *Lam.*562.

Pardon of two for all felonies done by them, or either of them, will not serve for offences done by one of them alone. *Lam.*562.

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for pety treason, murder, nor of one attainted of felonie. *Lam.*561.

A speciall pardon ought to be pleaded under the great seale, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unlesse there be a dispensation by *non obstante*. *Lam.*561.

Prisoner pleadeth a pardon, the I. of P. in absence of the Kings atturney may joyn issue that he is one of the persons excepted. *Lam.* 540. *Stam.*103.

He that killeth another *se defendendo*, needs not sue to the King for a pardon. *Stam.*15.*b* *Lam.*253.

He that killeth one by misadventure, shall have a pardon of course without suit. *Stam.*16 *Stat.* of *Gl.* *c.*9. in both cases the goods are forfeited.

The

The manner of ſuing a pardon of courſe is, If they deſire to purchaſe their pardon, they muſt upon their tryall plead not guilty, and then the ſpeciall matter being found by verdict, they ſhall be bayled; then they muſt ſue forth a *Certiorari* to certifie the record to the Lord Chancellour, who ſhall make them a pardon of courſe under the great ſeale without ſuing to the King. *Stam.* 15. *Dal.* 250.

## Park and Parker.

Hunters or killers of any Deer or Conies in the night or day time in any park or warren, or in any other incloſed grounds, and being thereof lawfully convicted, every ſuch offender ſhall ſuffer three moneths impriſonment, and finde ſufficient ſurety for the good behaviour for the ſpace of ſeven years, or elſe continue in priſon till he finde ſuch ſureties for the ſpace of 7. years, and pay treble damages, or (if it be for deer) x. l. to the party grieved at his election. 5 *Eliz.* 21. 3 *Iac.* c. 13. *Dal.* 326. *Vide* Hunting.

## Parſon and Vicar, *vide* Eccleſiaſticall cauſes.

## Partridges and Pheaſants.

Every Juſtice of peace may examine offences againſt the ſtatute of 23 *Eliz. cap.* 10. for taking of partridges and pheaſants in the night, and binde the offenders by recognizance with good ſurety to appeare at the next Qu. Seſſions, &c. And after conviction and

« and puniſhment take bond with ſureties,
« that for two years after they ſhall not of-
« fend againſt the ſaid ſtatute. *Dal.* 87. *Lam.*
« 200. 23 *El. ca.* 10.

By 1. *Iac. cap.* 27. 1 He that ſhall ſhoot at, kill, or deſtroy with any gunne, croſſe-bow, ſtone-bow, or long-bow, any partridge, pheaſant, houſe-dove, pigeon, heron, mallard, duck, teale, wigeon, growſe, heathcock, moregame, or any ſuch fowle, or hare. 2 Or ſhall take, kill or deſtroy any partridge, pheaſant, houſe-dove or pigeon with ſetting-dogs and nets, or with any manner nets, ſnares, engines or inſtruments. 3 Or ſhall take or willingly deſtroy the eggs of any pheaſant, partridge, or ſwan. 4 Or ſhall trace or courſe any hare in the ſnow, or ſhall take or deſtroy any hare with cords or ſuch inſtruments. 5 Or ſhall keep any greyhound for deere or hare, or ſetting-dogs or nets to take pheaſants or partridges, not having lands of inheritance of 10. pound or 30. pound *per annum* for life, or in goods 200. pound, or be the ſonne of a Knight, or ſonne and heire apparant of an Eſquire: any of the ſaid offences being proved by the parties confeſſion, or oath of two witneſſes before any two Juſtices of Peace of the Countie where the offence ſhall be committed, or the party apprehended, ſhall be impriſoned for 3. months without bayle, unleſſe he forthwith upon his conviction pay to the uſe of the poore there 20. ſhill. for every hare, fowle, and egge, and 40. ſhill. for having every ſuch greyhound, ſetting-dog, or nets, or after three

three moneths imprisonment be bound with two sureties not to offend in any the said particulars, which recognizances taken by two Justices of the Peace, must be returned at the Quarter Sessions. 1 *Iac.c.*27. *Dal.*89. *Lam.*335.

By 7 *Iac.c.*11. proofe of one witnesse is sufficient for the taking of partridges and pheasants, with setting-dogs and nets, or other nets, snares, or engins, &c. the punishment as 1 *Iac.*27. *Lam.*334.

Killer of partridges or pheasants with hawks or dogs, by colour of hawking between the first of July and the last of August, upon conviction within six moneths after the offence by the confession of the party or oath of two witnesses before two Justices of peace, is to be imprisoned one moneth without bayl; unlesse he pay presently to the Churchwardens and Overseers of the poore where hee offended or was taken, 40. shill. for hawking, and twenty shill. for every partridge or pheasant taken. 7 *Iac. ca.*11. *Lamb.* 335. *Dal.*88.

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by lowbell or trammell, and there to let them goe againe, loseth 20. shill. a pheasant, and 10. shill. a partridge. 11. *H.7.c.*17. & 23. *El.c.*10. *Lam.*447.

Hawking in corne before it be cropped, without consent of the owner, loseth 40. shill. *ibid.*

Taker, killer, or destroyer, by guns, bows, setting-dogs, nets, or other engines, of any partridge

partridge or pheasant, except the owner of a warren, Lord of a Manour, or having lands of inheritance in his owne or his wives right of the cleare yearly value of 40. pound, or for life of 80. pound, or goods worth 400. pound, and their houshold-servants authorized by them within their own grounds in the day time onely betwixt Michaelmas and Christmas, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Justices of Peace next the place of offence or apprehension, to be imprisoned 3. moneths without bayle, unlesse he pay immediately unto the Churchwardens and Overseers of the poore of one of the said places, 20. shill. and be bound to the King by recognizance in 20. pound never to offend again: the same to be certified at the next generall Qu. Sessions. *7 Iac. cap.* 11.

Buyer or seller of hare, deer, partridge, or pheasant (except partridges or pheasants bred up or brought up from beyond the seas) loseth for every deere 40. shil. pheasant 20. shil. hare or partridge 10. shil. one moity to the informer, the other to the poore of the parish. 1 *Iac. c.* 27.

Constable by warrant from two Justices of the Peace may search the houses of any not allowed, suspected to have any setting-dogs or nets for partridges, and finding them, may take, carry away, detaine, kill, or cut in pieces any of them. 7 *Iac. c.* 11.

Offences against the statute of 1 *Iac. c.* 27. punished by it, are not to be punished by any former

former, and are to be heard and determined by Judges of Assize in their Circuit, Just. of Pat Qu. Sessions, or two Justices of the Peace out of the Sessions. 1 *Iac.* 27.

" Who may take partridges and pheasants " in their owne ground, and when. *Vide* 7. *Iac. cap.* 11.

## Peace.

Every private person that shall be present at any affray, assault, or batterie, ought to part them that fight: and if he take hurt, he shall have his action; but if they resist him, he may not hurt them. *Lam.* 131. *Dal.* 33.

Every man may stay the affrayers, til their heat be cooled, and then they may deliver them to the Constable to imprison them till they find sureties of the Peace; but they may not imprison them unlesse the one of them be in perill of death by some hurt, for then any man may carry the other to the gaol till it be known whether the other will live or die. *Lam.* 131. *Dal.* 33. *Br. Coro.* 225.

He which hath mortally hurt another, flyeth into anothers house, any man that pursueth him with hue and cry, may break open the house, enter, and take him. *Dalt.* saith the Constable may. *Lam.* 131, 132. *Dal.* 34.

" If an affray, forcible entry, or any " thing in disturbance of the peace be done " in the presence of a Justice of Peace, hee " may record it, and certifie the same, and " commit the parties presently. *Dal.* 89. *vide* " Affray.

If

" If the Justice of Peace certifie into the " Kings Bench that I. S. hath broken the " peace, upon that Certificat I. S. shall be " there fined, without allowing him any " traverse. *Dal.* 89.

Peeres, *vide* Noble personages.

Pedlers, *vide* Rogues.

## Perjurie.

Procuring any unlawfully to commit wilfull perjurie in any case depending in Court of Record, Leet, Court Baron, Hundred Court or ancient demesne, or hath corruptly suborned any witnesse sworn to testifie *in perpetuam rei memoriam*, or if any have upon such procurement or by his own act wilfully committed such perjury, the procurer shall forfeit 40. pound; and if not worth so much, half a years imprisonment without bayle, stand upon the pillorie for one houre, and disabled for a witnesse for ever after. 5 *El. cap.* 9. & 14 *El. cap.* 11.

The perjured 20. pound and six moneths imprisonment, and ever disabled for a witnesse; and if not worth 20. pound, to have his eares nailed to the pillorie. 5 *El. c.* 9. & 14 *El. c.* 11. & 1 *Iac. c.* 25. *Lam.* 416. *Cro.* 18. *a. b.* This offence to be heard and determined in the Qu. Sessions. *Lam.* 609.

Execution of the forfeiture upon the statute of perjurie, to be awarded by the J. of the P. before whom the conviction was. *Lam.* 585.

Com-

Committing of perjurie upon anſwer to a bill of complaint is not within the ſtatute of 5 *El.* z. but for a falſe depoſition upon examination upon interrogatories. *Crom.* 18.*b.* nu. 3.

If any give falſe evidence upon a bill of endictment at the Seſſions, it is held he ſhall not be puniſhed by the ſtatute of 5. *El.* z. for that the King is not named in the ſaid ſtatute. *Cro.* 18.*b.* nu. 5.

"If an officer take other fees then are allowed and incident to his office, he committeth perjurie. *Cro.* 57.*b.* nu. 7.

"A man is attainted of perjurie, the King "pardons and reſtores him, *Quære* if his te"ſtimony ſhall be allowed againſt a pri"ſoner, for *Once forſworne, ever forlorne. Cro.* "100.*b. Dal.* 305.

## Petie-treaſon.

The wilfull killing or joyning in killing of the husband by the wife, the maſter or miſtreſſe by the ſervant, the Ordinary by his clerk, is pety treaſon. 25 *E.* 3.*c.* 2. *La.* 245, 246. *Dal.* 236. *Cro.* 19*b.* nu. 1

The child maliciouſly killeth the father or mother, it is petie-treaſon, though the father or mother at the ſame time give neither meat, drink, nor wages to the ſaid child; but it is petie treaſon in the ſaid child, in reſpect of the duty of nature violated. *Dal.* 233. *Cro.* 19.*b.* But *Lam.* ſaith it is not treaſon in the child, if the father give it not meat nor drink, as to a ſervant, *Lam.* 245. and do their buſineſſe, for

for it is as a servant. 21 *E.*3.17. meere for. meistre by *Lam.*opinion.

The son or daughter in law kill the father or mother in law with whom they dwell, and doe service, and have meat and drink; it is petie-treason, though such child take no wages; but the indictment shall be by the name of servant. *Dal.*237.

Judgement in petie-treason is, a man is to be drawn and hanged; if a woman, both in high treason and pety-treason to be drawn and burned. *Lam.*570. *Dal.*237.

The forfeiture for petie-treason is, the King shall have all his goods, and for his lands *Annum, diem, & vastum*, and the escheat thereof shall be to every lord of his proper fee. *Dal.*238.

No clergy is allowed in case of petie-treason. *Dal.*237.

## Pewter, *vide* Brasse.

## Physician.

One neither Physician nor Chirurgeon taketh upon him to cure a sick or wounded man, who dieth under his hand, it was felony untill 34 *H.*8.*c.*8. *Lam.*240. *Dal.*243.

But if a smith or other having skill onely in curing and dressing diseases of horses, or other cattell, shall take upon him cutting, or letting blood, or such like cure of a man, who dieth thereof, it seemeth to be felonie. *Dal.* 243.

Pictures

Pictures brought from Rome, *vide Agnus Dei.*

Playes and Players, *vide* Unlawfull games, *vide* Rogues.

## Plague.

Head-officers and Justices of Peace in a corporation, or in a priviledged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or priviledged place, or liberties thereof, for the reasonable relieſe of persons infected, or dwelling in houses infected within the said corporation or priviledged place. 1 *Iac. cap.* 31. *Lamb.* 337.

Corporation or priviledged place not being able to relieve the persons infected therein, upon certificate of the head-officer or Justices of Peace, or two of them to the two next Justices of the Peace, the said two Justices may assesse and tax the inhabitants of the county within five miles of the corporation at a weekly tax for the relief of them. 1 *Iac. c.* 31. *Lam.* 337.

There being no Justice of peace in the corporation, or the infection being in a hamlet, the two next Justices of the countie may assesse the inhabitants of the county within five miles of the place infected, for the reasonable relieſe thereof. 1 *Iac. cap.* 31. *Lam.* 338.

The taxes upon refusall to be raised by warrant of the head-officers or Justices upon the goods of the refuser, or upon default of

of goods returned, the partie by another warrant to be impriſoned, till he make payment thereof with the arrerages. 1 *Iac. cap.*31.

Taxes made for the reliefe of places infected, are to be certified at the next Qu. Seſſions, and there to be continued, enlarged, or extended to other parts of the Countie, or determined by the greater part of the Juſtices. 1 *Iac.cap.*31. *Lam.*609.

Taxes levied of the countie for the reliefe of an infected corporation, are to be diſpoſed by the head officer and Juſtices of the corporation, or two of them; and if there be no Juſtice, then by the Juſtices aſſeſſors. 1 *Iac. cap.*31.

Officers negligent in levying of the taxes, loſe 10. ſhill. to be imployed as the taxes. 1 *Jac.c.*31.

Watchmen not to be impeached for hurting thoſe infectious perſons that being commanded to keep in, will in offering to come forth reſiſt the watchmen. 1 *Iac.c.*31.

Any infectious perſon commanded to keep in, goeth abroad and keepeth company, having an infectious ſore uncured, is felonie without corruption of bloud or forfeiture of goods; if without ſore, to be puniſhed as a vagabond by 39 *El.* and bound to his good behaviour for a yeare. 1 *Iac.c.*31.

Officers of a corporation and Juſt. of the peace in the countie, may reſpectively appoint, ſweare, and direct ſearchers, watchers, and buryers of infected perſons and places 1 *Iac.c.*31. *Lam.*197.

One

" One Justice of Peace may command per-
" sons dwelling in infected houses to keep in:
" and, if they goe abroad, violently enforce
" them. 1 *Iac.* c. 31. *Lam.* 197. *Cro.* 122. *b.* nu.
" 39. *Dal.* 90.

## Plaints in Court.

One Justice of Peace may upon complaint examine the Sheriffe or Undersheriffe and plaintiffe concerning the taking and entring of plaints in their County Court and books against the statute, or any bayliffe of the hundred for not warning the defendant in such a plaint according to his precept from the Sheriffe or Undersheriffe; and if he thereby finde them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination, and these examinations the Justice must certifie into the Exchequer within a quarter of a year, on pain of forfeiture of 40. shil. for every default. 11 *H.* 7. 15. *La.* 201. *Dal.* 137.

Sheriffe entring plaints in any mans name that is not present in Court, nor hath any sufficient atturney or deputy, loseth 40. shill. *Lam.* 431.

So if he enter more plaints then the plaintiffe suppoſeth he hath cauſe of action for. 11. *H.* 7. *c.* 15. *Lam.* 431.

Pond and Pond-heads, *vide* Fiſh.

Poyſoning, *vide* Murder.

To extoll the power of the Pope by writin cyphering, printing, preaching, or any ſpeec open deed or act adviſedly holden or ſto with to extoll or defend the power of the ſhop of Rome, or of his See heretofore cla ed and uſurped within this Realm, or to abb procure, counſell, aid, or comfort ſuch, is tr ſon, for the ſecond offence; for the firſt offen *Præmunire. Dal.* 231. *Lam.* 411. 5 *El. c.* 1.

Preſentment at the Quarter Seſſions for ex tolling the power of the Pope of Rome, mu be certified by the Juſtices of Peace befor whom it was taken into the Kings Bench within 40. dayes after, if the terme open; i not, then the firſt day of the next term, or ev ry Juſt. loſe 100 pound. 5 *El. c.* 1.

## Popiſh books.

Printer, buyer, ſeller, or bringer from be yond the ſea of any Popiſh Primer, Lady Pſal ters, &c. in any language, or other ſuperſtitiou books in Engliſh, loſeth 40. ſhil. a book, where of one part to the King, another to the info mer, a third to the poore of the pariſh where the book ſhall be found, 3 *Iac. c.* 5.

Two Juſtices of the Peace may ſearch th houſe or lodging of a Popiſh Recuſant, & whoſe wife is ſuch, for Popiſh books and re liques, and finding any unmeet for them to uſe, muſt deface and burne them, or being of value deface them and reſtore them to the owner. 3 *Iac. cap.* 5.

Poor

Traveller with wife and children not being a rogue, dyeth or runneth away, the Towne where that happeneth is not bound to keepe them, where they die, nor ſend them away, but onely in charity, except they become wandring rogues. *Lamb.* 208. *Reſol.* 7.

Parents able to worke are to finde their children by their labour, and not the Pariſh. *Reſol.* 8.

None is to be removed out of the Towne where he dwelleth, or ſent to the place of birth or laſt habitation, but a vagrant, nor found by the Towne except he be impotent. *Reſol.* 9.

Perſons deſtitute of houſes by expiration of terme, or ſervants out of ſervice, muſt provide houſes for themſelves and ſervices. *Reſol.* 9. *Dal.* 99.

Able bodies yet idle refuſing to worke, and no wanderers, are not to be ſent to the place of birth or laſt habitation, but to the houſe of correction, *Ref.* 10. by ſuch a Juſt of P. as may appoint overſeers for the poore. 43 *El. c.* 2. *La.* 209, & 295. *Dal.* 99.

Able bodies, yet idle and refuſing to work, having any lawfull meanes to live by, are not to be ſent to the houſe of correction. *Ref.* 10. *Lam. ibid. Dal.* 97.

It is finable to remove or put any out of the pariſh, who are not to be put out, and ſuch may be ſent back. *Reſol.* 11. *Dal.* 98.

None may take reliefe at any mans doore in the pariſh, but by the appointment of the overſeers, nor beg in the high-wayes in their pariſh *Ref.* 15.

Parſons, vicars, farmers, or owners of impro-

priations, cole-mines, or saleable woods, are to be charged with the relieſe of the poore. *Reſ.* 18, 19.

Biſhop and his Chancellour and three Juſt. of P. have power to examine how money for relieſe of the poore appointed by the ſtatute is beſtowed, and to call to account the deraiſners thereof. 14 *Eliz. c.* 5. & 39 *Eliz. c.* 18. *Lam.* 366.

J. of P. proved before the Judges of Aſſiſe by two witneſſes to be in default about the execution of the ſtatute for the poore, loſeth 5. pound. 14 *El. c.* 5. *Lam.* 372.

Parents at the Qu. Seſſions appointed to keepe their children, or children their parents, and have not relieved them at their owne charges, loſe 20. ſhill. a moneth. *Lamb.* 445. 39 *El. c.* 3, 4.

In diſability of the pariſh or hundred to relieve their poore, the greater part of the Juſtices at the Qu. Seſſions may rate any other pariſh or hundred thereto. 39 *El. c.* 3. & 43 *El. c.* 2. *Lam.* 611.

Beggers children at the Qu. Seſſions may be bound to ſerve any ſubject in an honeſt calling. 14 *El. c.* 5. & 18 *El. c.* 3. *Lam.* 614.

Performance, or not performance of ſo much of the ſtatute of 14 *El. c.* 5. for the poore as is not altered by 39 *Eliz. c.* 3. or 43 *El. c.* 2. 1 *Iac. c.* 25. is to be yearly examined at Eaſter Seſſions. *Lam.* 620.

Overplus of the ſtock for maymed ſouldiers is to be imployed by the greater part of the Juſt. at the Qu. Seſſions to ſuch charitable uſes as are ſet downe in the ſtatute for the Poore, except

except by them it be reserved for future pensions. 43 *El.c.*3.

Young children, the parents being dead, are to be set on worke and relieved by the Towne where they dwelled at the death of their parents, and not sent to the place of their birth. *Dal.*96.

The Justices may compell such as be of ability, to take poore children apprentices, and may binde such masters refusing, over to the next gaol-delivery: so said Sir *Henry Mountague* at Cambridge Assizes 1618. & the statute of 43 *El.c.*2. seemeth to warrant as much, the words whereof are to this effect.

*It shall be lawfull for the Churchwardens and Overseers, or the greater part of them, by the assent of two Just. of the P. to binde any such children to be apprentices where they shall see convenient cause, Dal.* 93. *or the Churchwardens or overseers, with the assent of two such Justices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusall to levy it upon the Just. of Peace his warrant by distresse and sale of the offenders goods. Dal.*93.

If the Parents, without good cause shewed, refuse to suffer their children to be apprentices, the Justice may binde them over to answer their contempt; if the child refuse, send him to the house of correction, *quousque, &c. Dal.* 93.

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice. *Dal.*96.

Two Justices of Peace, one being of the

Quorum, may send to the house of correction or gaole, such as imploy not themselves in work being appointed. 43 *El.c.*2.

## Possession actuall and in Law.

If after the death of *A.* another man abateth or entreth into his house forcibly before the heire of *A.* hath gotten any actuall possession indeed, the heire of *A.* shall have no restitution, because he had a possession in law onely. *Lam.*153. *Dal.*217.

## Power of the County.

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none. *Lam.*315. *Dal.*114. *Cro.*62.*b.* nu.22. & 64.*b.*nu.49.

Power of the county is raised without knowledge or information of a riot; if when they come they find one, it is lawfull, and they may proceed to punish it. *Lam.*316. *Dal.*114. *Cro.* 62.*b.*nu.20.

Power of the county in suppressing a riot, *vide* Riot.

The Justice of Peace, Sheriffe, or Undersheriffe, in levying power of the County, may have the aid of all the Knights, and other temporall men under that degree that are above the age of 15. and able to travell, upon paine of imprisonment, fine, and ransome to the King. *Dal.*113. *Lam.*315. *Cro.* 157.*b.* But it is referred to the discretion of the Justices how many or how few they will have, and in what sort

sort they shall be armed. *Dal.*113. *Lam.*315. *Cro.*64.*b.*nu.49.

One Just. of P. may take power of the county, to suppresse rioters, and need not tarry till his fellowes come. *Cro.*157.*b. Dal.*110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray. *Cro.* 158. *a. Lam.*134.

Sheriffe upon a writ of execution returned that he could not execute it for resistance, and was amerced 20.marks, because he took not the power of the county. *Cro.* 158.*a. Lamb.* 157. *Dal.*216.

## Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon-time, is to be bound to his good behaviour, and have three moneths imprisonment. *Lamb.*416. 1 *M.c.*3.

If the disturber of any Preacher be arrested and brought before any Justice of Peace, upon due accusation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within sixe dayes after another Justice joyning in examination, they upon confession of the party, or conviction of two witnesses, may commit him to prison for three moneths. *Lam.*195,333. 1 *Mar.c.*3.

*Quære* if all the statute of 1 *Mar.*3. be not repealed by the generall words at the latter end of the statute 1 *Eliz. c.*2. *Dalt.*103, 104.

Sir *Nich. Hides* opinion cited that it was wholly repealed.

Precept, *vide* Warrant.

## *Præmunire.*

Refusall to take the oath of the Kings supremacie, the first offence is *præmunire*, the second treason. 5 *El. c.* 1. *Lam.* 411. 23 *El. c.* 1.

To aid, comfort, or maintaine one that hath committed treason in using of bulls, is *præmunire.* 23 *El. c.* 1. *Lam.* 413. *Vide* Treason.

To hold, set forth, or defend the power spirituall of any forrein Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expresse deed or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *præmunire*, the second treason. 1 *El. c.* 1. & 5 *El. c.* 1. enquirable by words of 23 *El. c.* 1. & *Lam.* 411.

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authority of the See of Rome, incurreth *præmunire.* 13 *El. c.* 2. & 23 *El. c.* 1. *Lam.* 413.

To bring from the Bishop or See of Rome, or any claiming authority from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or weare in any wise, or receive them to such intent, and not to apprehend

hend the offender, or within three dayes diſcloſe him to the Ordinary or other Juſtice of Peace, or within one day deliver the things received to a Juſt. of Peace. 13 *El. c.* 2. & 23 *El. c.* 1. *Lam.* 414.

The forfeiture in caſes of *Præmuire* upon the ſtatute of 16 *R.* 2. is to forfeit his lands and tenements in fee for ever, his lands in taile for his life, and all his goods and chattels, and to have a perpetuall impriſonment, and to be out of the Kings protection. *Cro.* 14. *a. Dal.* 234, 235. but *quære* if he be attainted upon 27. of E. 3. 1. if he appeare at the day of the *præmunire* returned. *Dal. ibid. Br. Præmunire* 6. *Coo.* 11. 34. *Inſtit.* 129. & 130. at large.

A man may not kill him which is attainted in the *præmunire* by 5 *El. c.* 1. but before he might, for they were out of the Kings protection. *Cro.* 15. *a. b.*

One lawfully impriſoned untill the next Seſſions for refuſing the oath of allegeance, and there againe refuſing it, incurs a *præmunire*, except married women, who are onely to be impriſoned without bayle. 3 *Jac. c.* 4. & 7 *Jac. c.* 6.

Juſt. of P. not diſcloſing nor certifying within 14. dayes the name of him which bringeth any *Agnus Dei*, croſſes, or pictures, to one of the Kings Councel, 13 *El. c.* 2. is *præmunire*. *Lam.* 195, 372.

Broakers of bargaines contrary to the ſtatute of 37 *H.* 8. *c.* 9. provided againſt uſurie, ſhal be punished as Counſellors, Atturneys or Advocates in caſe of *præmunire*. 39 *El. c.* 18. 13 *El. c.* 8.

Delivering or ſending any reliefe to a Jeſuite, Prieſt, or other remaining in any Colledge of Jeſuites, incurreth *præmunire*. 27. *Eliz. cap.* 2.

## Preſentment.

Preſentment is a declaration of the Jurors or Officers without any bill offered before. *Lam.* 485.

It differeth from an endictment; which is the verdict of the Jurors that be charged to enquire of that offence which is offered. *Lamb.* 486.

### *What ſhall be a good preſentment.*

Preſentment at a Seſſions where the ſtyle is in the name of three, and the preſentment taken by two. *Lam.* 383.

Preſentment where ſome of the Jurors be allyed or of blood to him that procureth the indictment; but it is no diſcretion in the Juſtices to ſuffer ſuch to be impanelled. *La.* 398.

Preſentment of a Jurie of an hundred, of an offence done in another hundred. *Lam.* 399.

"Conſtable preſents a fault at the Seſſions "which belongeth to his office, which is al- "lowed by the Enqueſt, it is good: otherwiſe "it ſhall not ſerve for an Endictment. *Cro.* "125 *b.*

"Conſtables, Churchwardens, aleconners, "ſides-men, may preſent all offences contrary "to 4 *Jac. c.* 5.

Preſentment where all were not ſworne, if the Record be that all were ſworne, *Lam.* 399.

*Where*

*Where the declaration of the Officers of the Seſſions ſhall have the force of a Preſentment.*

A Juſtice of Peace upon his own knowledge of offences againſt the ſtatute of 2. & 3. *P. & M. c.* 8. & 5. *El. c.* 13. of high-wayes. *Dal.* 67. *Cro.* 125. *b.* 195. *a.* nu. 5.

Searchers appointed to examine the true making of tile. 17 *Ed.* 4. *c.* 1. *Lam.* 508.

Conſtable for ſundry points in the ſtatute of Wincheſter. 13 *Ed.* 1. *Lam. ibid.*

Amendment of a preſentment, *vide Venire facias.*

## Prieſts, *vide* Jeſuites.

## Principall and Acceſſarie, *vide* Acceſſarie.

## Priſon.

"Impriſonment, is the putting of a perſon "from his liberty unto the cuſtody of the "Law, to anſwer to that which ſhall be ob-"jected. *Lam.* 228. *Dal.* 343.

"A man is in priſon ſo long as he is in "ſight of his Gaoler, though he break away. "*Dal.* 276.

"No man ſhall commit another to priſon, "except he be a Judge of Record. *Dal.* 344.

"Conſtable, impriſoning a ſuſpect for fe-"lony, may lock the ſtocks, and put irons on "him: And in conveying him to the Juſtice, "or gaole, may pinion him, or otherwiſe make

"him

ſe him ſure that he cannot eſcape, *Dal.*340.

One committed to priſon for refuſing to finde ſureties for the Peace, ſhall remaine there till he freely offer and find them. *La.*93. *Dal.*171.

One committed for denying to find ſureties for the Peace, may not be delivered upon the death or releaſe of the party, without help of the Seſſions or gaole-delivery. *Lam.*93. *Quære.*

One was impriſoned till he make fine for that he ſtood by whileſt one was ſlaine, becauſe he did not his beſt to attach the murderer. *Lam.*132.

The Sheriffe or Gaoler may impriſon in his houſe or in the common gaol at pleaſure. *Dal.* 347. *Quære. Cro.*169.*b. Lam.*133.

Conſtable cannot impriſon in his houſe but in the ſtocks, and that but untill he may provide convenient aid to convey him to the Juſt. of Peace or to the Gaole. *Dal.*348. *Lamb.* 133.

Juſt. of Peace cannot commit felons to priſons which be not common gaoles, nor make a gaole of their owne houſes. *Lam.*133. 5 *H.*4.*c.*10. *Coo.*9.119.*b.* 23 *H.*8.*c.*2. *Dal.* 347.

Juſtice of Peace may commit to the ſtocks ſome offenders againſt certaine penall ſtatutes. *Dal.*347.

Breach of priſon is the eſcape of a felon, though not endicted, out of the gaole, ſtocks, or poſſeſſion of any keeper. *Lamb.*229. *Dal.* 275.

One impriſoned upon a *capias pro fine* is to be

be delivered upon payment thereof. *Lam.* 574 or upon pledges by recognizance for payment thereof. *Lam. ibid.*

## Priſoners.

Every one who is under arreſt for felony, is a priſoner as well without priſon as in the ſtocks, in the high-way, or in the poſſeſſion of him that arreſted or hath the keeping of him. *Dal.* 275, 343.

To break priſon is felonie, being committed for felonie. *Lam.* 228, 424.

"It is no matter whoſe Priſon is broken, "whether the Kings or other perſons, whe- "ther it be common or private gaole, or the "Conſtables houſe, or others houſe who "hath the cuſtody of him for felony. *Dal.* "275. *Stam.* 31.

Reſcous to help a priſoner committed for felony, to get away, is felony. *Lam.* 229, 424.

If an officer or other whatſoever by his wilfull default ſuffer a priſoner to eſcape, it is felonie. *Lam.* 229, 424.

Priſon-breach is to eſcape out of the ſtocks, or out of any mans poſſeſſion. *Lam.* 229.

"A Conſtable voluntarily ſuffereth a thief "to drown himſelfe; it is felony in the Con- "ſtable, *Dal.* 276. but if the thiefe kil, hang, "or drowne himſelf, it is a negligent eſcape. "*Dal. ibid.*

Priſoner of ſufficient ability ſhall beare his owne charges, and of them that ſhall be appointed to guard him to the gaole, and he refuſing,

refusing, the Constable of the Parish where he dwelleth, by warrant from the Justice that committed him, may levy the same by distresse and sale of his goods after apprizement by foure of the parish, the overplus to be delivered to the owner. 3 *Iac. c.* 10.

Prisoner not of ability, and those that guard him, to have their charges from the place of apprehension to the gaole borne by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, and two or three of the Inhabitants, and allowed by the Just. of Peace. 3 *Iac. c.* 10.

Any lawfully taxed for the charge of bringing a prisoner to the gaole, and refusing to pay it to the Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levie the same by distresse, and (after apprizement by foure of the parish) sale of the goods, giving the owner the overplus. 3 *Iac. c.* 10.

Defendant in any action for a distresse taken by force of the statute of 3 *Iac. c.* 10. may plead not guilty, and give the speciall matter in evidence, and upon recovery or nonsuit shall have treble damages. 3 *Iac. c.* 10.

Prisoners discharged by Justices of Peace who take the endictment to be void, may be stayed if they change their opinion before judgement. *Lam.* 540.

« A man outlawed for felony is impriso-
« ned amongst traitors, and breaking prison
« setteth them loose, this is rescous of a trai-
« tor, and treason. *Cro.* 35. *a.* nu. 5, 6.

Privie

Privie Seſſions, *vide* Seſſions.

## Proceſſe.

Proceſſe hath the name becauſe it proceedeth or goeth out upon former matter either originall or judiciall. *Lam.* 519.

Suggeſtions and informations, whether by word or writing, are but to ſtir up the Juſtices to commend the cauſe to the Inqueſt, and not to award proceſſe upon them, *Lam.* 509. unleſſe it be in certaine cauſes where it is eſpecially given them by ſtatute. *ibid.*

Authority to make proceſſe upon endictments is given to the Juſtices by words of their commiſſion, or by implication where the power of hearing and determining is given by their commiſſion. *Lam.* 520.

« Proces ought alwayes to be in name of « the King with *Non omittas, &c.* with *Teſte* « of any two Juſt. under their hands ſitting « in Court. *Lam.* 520. *Dal.* 412.

No proceſſe, plea, or ſuit, is to be diſcontinued by making a new commiſſion of the Peace. 11 *H.6.c.6.* & 1 *Ed.6.c.7.* *Lam.* 520. See the end of 1 *E.6.c.7.*

Proceſſe upon all endictments of treſpaſſe againſt the Peace or upon ſpeciall ſtatute is *Venire facias*; and if he be thereupon returned ſufficient, then a *Diſtringas infinitè*; if he be returned *Nihil habet*, then *Capias alias, pluries, Exigent.* *Lamb.* 522, 523. *Dalt.* 412.

Proceſſe upon the ſtatute of unlawfull games, liveries, maintenance, archerie, &c.

*Venire*

*Venire facias, Capias, Exigent.* 33 *H.*8. *c.*10. *Quære* if it be not repealed by 37 *H.*8. *c.*7. *Lam.*523.

Proceſſe upon the ſtatute of victuals, attachments, *Capias, exigent. Lam.*523, 524.

Proceſſe upon depraving the Sacrament is two *Capias, Exigent, Capias utlagatum*, and may be ſent by any three Juſtices into any ſhire, one being of the Quorum. *Lam.*524.

Juſt. of Peace may award proceſſe into a forrein county againſt an accountant for money levied for making a gaole. 25 *H.*8. *c.*5. 5 *El. c.*24. *Lam.*525.

Juſtices of Peace where the ſervant departed, may award a *Capias* to the Sheriffe of the ſhire whereinto he departed, returnable before themſelves. 5 *El. c.*4. So where a decayed bridge is in one county, and the party or land chargeable doe lie in another county. *Lam.*525. 22 *H.*8. *c.*5.

One indicted of treaſon or treſpaſſe in one county, is impriſoned in another; the Juſtices may award *Habeas corpus* to remove him before themſelves. *Lam.*526.

Proceſſe upon indictment of felony may be ſent into any forrein county. 5 *E.*3. *c.*11. *Lam.*527.

Proceſſe upon indictment of felony is two *Capias* and an *Exigent*. 23 *E.*3. *c.* 14. *Lam.* 528.

Indictment of treaſon, felony, or treſpaſſe in one county nameth the indicted to be of another, the firſt proceſſe ſhall goe into the county where he is indicted, the ſecond to the county where he is named, to be returnable three

three moneths after; and if he be not to be found there, then that Sheriffe to make Proclamation at two County Courts before the returne that he appeare before the Juſtices of the County where the indictment is at the day in the *Capias*; and if he appeare not, an *Exigent* to be awarded. 8 *H.6.c.*10. *Lamb.* 525,526.

The two Juſtices of the Peace which have the overſight of the ſheriffs books and of the amerciaments, upon ſuggeſtion may make proceſſe as in an action of treſpaſſe againſt the offenders of that ſtatute to anſwer before them. 11 *H.7.c.*15. *Lam.* 360.

No proceſſe is to be awarded by the Juſtices after outlawry, but they are to certifie the outlawry into the Kings Bench. *Lam.* 521,522.

Proceſſe upon informations muſt be ſuch as the ſtatute whereupon they are grounded doe appoint. *Lam.*528.

The Sheriffe or his miniſter that hath arreſted, or cauſed any fine, ranſome, or amerciament to be levied by reaſon of indictment or preſentment at the Sheriffes turn or lawday without proceſſe from the Juſtices, loſeth 40. pound. 1 *E.4.c.*2. *Lam.*431,521.

Informations made in the Seſſions that an alehouſe-keeper hath done anything whereby he hath forfeited his recognizance, the Juſtices of P. may award proceſſe againſt him, to ſhew cauſe why he ſhould not forfeit his recognizance, *Lam.* 524. but *quære* what proceſſe. *Lam.*524.

Proceſſe

Proceſſe cannot be awarded by the Juſtices of Peace upon any forfeited recognizance, except alehouſes, but they muſt certifie them to the higher Courts. *Lam. ibid.*

## Proclamation.

Juſtices of Peace cannot acquit felons by Proclamation, or without ſufficient acquitall; and if they cannot endict them, they muſt remaine till the gaole-delivery. *Lam.* 549, 550.

The forme of Proclamations to remove a force upon a writ upon the ſtatute of *Northampton*, *vide Lam.* 168, 169. *Dal.* 61, 62.

Conſtable, if any affray be dangerous, may make Proclamation. *Lam.* 132. *Dalt.* 33. maketh a *quære.*

One Juſtice of Peace may make a Proclamation in the Kings name to ſtay a riot. *La.* 183. *Quære*, for the ſtatutes 1 *M.* 12. 1 *El.* c. 19. are expired.

Juſtices of Peace at every Seſſions uſe to make proclamation, that if any will informe for the King, he ſhall be heard. *Lam.* 520.

Proclamation annexed to the ſtatute of 4 *H.* 7. c. 12. is to be read every Q. Seſſions, or every Juſtice preſent loſeth 20. ſhill. 4 *H.* 7. 12. *Lam.* 633. *Quære* if of force now.

## Promoters, *vide* Informers.

## Propheſying.

Propheſier with intent to make rebellion, diſ-

diſſention, loſſe of life, or other diſturbance in the Realme, being convicted thereof before the Juſtices of Peace, ſhal be impriſoned one yeare without bayle for the firſt offence, and forfeit alſo ten pound; for the ſecond offence impriſoned all his life, and loſe all his goods and chattels reall and perſonall, and to be impeached within ſix moneths. 5 *El. c.* 15. *Lamb.* 415, 416.

## Purveyors.

If purveyors, caterers, or ſervants of any man but the King, take any thing without the owners will, or as they can agree and make preſent payment, it is felony. *Lam.* 231. *Dal.* 282. *Cro.* 48. *a.*

Purveyour ſhall not take cart or other proviſion of any Prelate or Clerk.

Purveyour, his deputy, undertaker, or ſervant, maketh purveyance without warrant, of any thing above 12. pence, without conſent of the owner, it is felony. 2. & 3. *P.* & *M. c.* 6. *Lam.* 422. *Dal.* 286. *Cro.* 48. *a.*

Purveyour taking any carriage in other manner then is compriſed in his commiſſion, it is felony. 36 *Ed.* 3. *cap.* 2. *Lamb.* 423. *Dal.* 286.

Or any purveyance without commiſſion under the great Seale, *Dal. ibid. Cro.* 48. *b.* it is felony.

Or make purveyance of goods above 12. pence, without teſtimony and apprizement of the Conſtable and foure honeſt men of the town, and without delivering tales or Indentures

tures under his ſeale teſtifying his purveyance, it is felony. *Lam.* 423. *Dal.* 286.

*Quære* if it be but of the value of 40. ſhill. or under. *Quære* by whom the apprizement ſhall be made, and betweene whom the Indentures ſhall be made. *Dal.* 287.

To take more victuals or carriages for the Kings houſe, then he ſhall deliver to the ſame houſe, is felony. *Dal.* 287.

To take ſheep in their wools betwixt Eaſter and Midſummer at ſmall prices, and to carry them to his owne houſe to ſhear them, *Lamb.* 423. *Dal.* 286. 23 *E.* 3. *cap.* 15. is felonie.

*Quære* if the felony of purveyours by 36 *E.* 3. *b.* be not altered by 23 *H.* 6. 1. & 2.

Purveyour taking any thing of the value of 40. ſhillings or under, without preſent payment, loſeth double the value of the thing taken; and the Conſtable upon requeſt made, not aiding him to reſiſt the Purveyour ſo taking, loſeth double damages.

And any of the Kings officers procuring any to be arreſted or vexed for ſuch reſiſtance, loſeth 20. pound. 20 *H.* 6. *c.* 8. & 23 *H.* 6. *c.* 2. *Lam.* 438.

Purveyour taking any thing of any man to ſpare him, is to be impriſoned two years, pay treble damages, and ranſome. *Lam.* 439.

Purveyour taking corne by other meaſure then the ſtricken buſhell, or by any more then eight ſuch buſhels to the quarter, and that hath taken carriages therefore without making ready payment, is to be impriſoned one yeare, and pay 5. pound unto the King,

and

and 5. pound unto the party. 25 *E.*3. *cap.*1. 36 *E.*3.*c.*3. & 1 *H.*5.*c.*10. *Lam.*439.

Purveyour of timber or his deputy, causing any timber to be felled fit for barking, but onely in barking time, except trees for building or repairing the Kings ships or houſes, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then onely the timber, loſeth 40. ſhill. for every tree. *Lam.*438,439. 1 *Jac.c.*22.

Dockets of Purveyours ought to be delivered over to the Juſtices of Peace at the next generall Seſſions, and by the Juſtices to be certified to the Treaſurer of the Kings houſhold. 2.& 3.*P.&M.c.*6. *Lam.*614.

Purveyour taking any proviſion for the Kings houſe by force of his Commiſſion, and ſelling away the ſame, his firſt taking is extortion, and he is puniſhable as a treſpaſſer, if not as a felon. *Dal.*287.

Undertakers, deputies, ſervants, and all other which under colour of the Kings Commiſſion to the Kings Purveyors, do take any victuals againſt the ſtatute, are liable to the pains therein mentioned againſt purveyors. 2.& 3.*P.&M.c.*6. *Cro.*48.*b.*

Juſt. of Peace are to certifie to the Treaſurer of the Kings houſhold the dockets of purveyours (brought to their Seſſions by Conſtables) that the ſerving of ſuch Commiſſions, and the true anſwering of purveyances may be better examined thereby. *Lam.*590 2.& 3.*P.et M.c.*6.

Putting

Upon malice prepenſed to put out any ones eyes, is felony. 5 *H.*4.*c.*5. *Cro.*49. *&* *Lam.*256, 420. *Dal.*280.

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## Quarter Seſſions, *vide* Seſſions.

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## Rape, or Raviſhment.

Deflowring of a maid under ten yeares old, with, or without conſent, is felonie without clergie. 18 *El.c.*6. *Lam.*256, 421. *Dal.* 290. *Cro.*47.*b.*

Raviſhing of a woman againſt her will, without conſent either before or after the fact, or being with force, though after ſhe doe conſent, is felonie without clergie. *Weſt.* 2.*c.*34. 18 *El.c.*6. *Lam.*256, 241. *Cro.*47.*b.* *Dal.*290.

To be preſent and aiding the raviſher, is rape. *Lam.*258. *Cro.*47.*b.* *Stam.*24. *Dal.* 290.

No rape where the party deflowred conceiveth with child. *Lam.*257. *Dal.*289. *Cro.*47. *b.* *Stam.*24.

Deflowring of one kept as the deflowrers concubine, is a good plea upon an appeale that it is no rape; otherwiſe of another mans concubine. *Lam.*257. *Cro.*47.*b.* *Stam.*24. *Dal.*290.

Force without carnall knowledge is no rape. *Lam.*257, 258.

See the ſtat. *de Officio Coronatorii* made 4 *E.*1.

Com-

Complaint muſt be made within 40. daies, but otherwiſe in an appeale.

A woman that is raviſhed ought preſently to levie hue and cry, and to complain thereof preſently to ſome credible perſons. *Dalt.* 389. *Cro.* 100. *a. Stam.* 22. in indictment of rape, no time to be obſerved.

To raviſh a woman who conſenteth for fear of death, &c. is raviſhment; for conſent ought to be voluntary and free. *Dal.* 290. *Cro.* 48. *a.*

« Conſenting after rape doth not hinder, « but that the husband, and if ſhe have no « husband, the father or next of blood may « purſue the raviſher, to have him convicted. « P. R. 133.

Rates, *vide* Taxations.

## Rebellious aſſemblies.

The ſtatutes 1 *M.* 12. and 1 *Eliz.* are diſcontinued. *Dal.* 222.

## Recogniſance.

Recogniſance is a bond of record teſtifying the recogniſer to owe a certaine ſumme of money to ſome other, and the acknowledgement of the ſame is to remaine of record, and none can take it but onely a Judge or officer of record. *Dal.* 334.

Every recogniſance taken by a Juſtice of Peace, muſt be made by theſe words *Domino Regi*, upon pain of impriſonment of any perſon that ſhall take it otherwiſe. 33 *H.* 8. *c.* 39.

*Cro.*

*Cro.* 196. *b.* n. 11. *Lam.* 162. *Dal.* 175, 379.

Sureties in recognisances ought to be Subsidie men, and they must be two besides the party himselfe. *Lam.* 101. *Dal.* 175.

It is in the discretion of a Justice of Peace, if he take a recognisance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the summe of money, and how long he shall be bound. *Dal.* 174. *Lam.* 100.

If a Justice of Peace be deceived in the ability of the sureties, he may compell the party to put in another. *Lam.* 100. *Dal.* 178.

Recognisance of the Peace, without expressing in the condition that it was for keeping of the Peace, seemeth void. *Lamb.* 103. *Dal.* 175.

So it is if a recognisance be that a recogniser shall not maime or beat *A.* without expressing keeping the Peace. *Lamb.* 103. *Dal.* 175.

Recognisance comprehending no time of appearance, but generally to keep the peace, is good. *Lam.* 103. *Dal.* 176.

Recognisance for the peace upon a *supplicavit*, is not of necessity to be returned until *certiorari*. *Lam.* 109. *Dal.* 177.

Recognisance taken to keep the peace against one especially, *quære* if it be good. *Lam.* 104. *Dal.* 176.

« Recognisance taken to be levyed onely « of the goods or onely of the lands of the « cogniser, seemeth to be good enough. *Lam.* « 104. *Dal.* 167.

« Wife or infant under the age of discre-

« tion

action are to be bound to the Peace by their own sureties onely. *Lam.* 101.

Recognisance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*. *Lam.* 109. *Dal.* 178.

Recognisance not forfeited is discharged by the death of the King, of the cognizer or the party suing for it, if it were against him alone. *Lam.* 113. *Dal.* 141.

The sureties dying, the recognisance is good against the executors. *Lam.* 113. *Dal.* 141.

Recognisances taken are to be certified notwithstanding the death of the King, *Lam.* 113. or of the recognizer, or of the party at whose suit it was granted. *Lam.* 113.

The Recognisance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison. *Lamb.* 114. *Dal.* 163.

Recognisance of the Peace brought into the *Custos Rotulorum* and not pursued by the party, may be called upon for the King by the Clerk of the Peace. *Ibid.*

Justices of the Peace cannot award process upon a forfeited recognisance, but it must be certified into the higher Court, except recognisance for alehouses. *Lamb.* 589. *Dal.* 177. *Cro.* 167. *a.* & 196. *b.* nu. 9. and the cause of the forfeiture. *Dal.* 177.

Recognisances or examinations taken concerning suspects or felons, are to be certified at the next generall gaole delivery. 2. & 3. *P.* & *M. c.* 10. *Law.* 212.

Recognisances taken by a Justice of Peace

*ex officio*, are to be brought into the *Cuſtos Rotulorum* at the next generall Seſſions, *Lamb.* 109. *Dal.* 177. *Cro.* 139. *a.* but no paine by the ſtatute of 3 *Hen.* 7. 1. if he doe not. *Br.* Peace 11.

None but the King can pardon a recogniſance once forfeited. *Lamb.* 111. *Cro.* 140. *b.* *Da.* 181.

« Recogniſance taken where the Juſt. hath « no authority, is void. And taken by au- « thority, if the Juſtice inſert other matter, « it is void. *Cro.* 196. *b.* nu. 7.

« A recogniſance taken by a Juſt. of P. « a matter of record ſo ſoone as it is taken « and acknowledged, although it be not « made up, but entred into his booke, nay « although it be not entred. *Dal.* 336. *Stan.* « 77. *b.* *E. Brook Record* 58.

## Reconciliation, *vide* Treaſon.

## Records.

Records be nothing elſe but memorials or monuments of things done before Judges that have credit in that behalfe. *Lam.* 63.

If a record ſay any thing, no man ſhall be received to averſe or ſpeak againſt it. *Lam.* 63.

The Judges may correct or amend any record in the term wherein the record is to be made, but after they have no power at all over them. *Lam.* 64.

The record or teſtimony of a Juſtice of Peace is in ſome caſes of greater force than

an endictment of a Jury, and againſt it the party ſhall not be admitted to traverſe. *Lam.*65.

Embezelling of a record is felony, but not to be dealt withall by Juſtices of Peace, *Lam.*231,549.

Precepts for ſuretie of the Peace, ſpeciall records for conviction of forcible entries made out of the Seſſions; are not records of Seſſions. *Lam.*389.

Records of cauſes determinable at the Seſſions taken by the Juſtices of Aſſize at their gaole-delivery as Juſtices of Peace, are to be left with the Clerk of the Peace to be brought to the next Seſſions of the Peace. *Lam.*391.

One pleadeth a record before other Juſtices by way of juſtification, the Juſtices ought to give him day to bring in the record. *Lam.*555.

A Juſtice of Peace upon a Commiſſion being convicted by oath of twelve men of embezelling, wilfull raſing of an endictment, or malicioufly enrolling that for an endictment, which was not found, or changing an indictment of treſpaſſe into an indictment of felonie, loſeth his office, and ſhall be fined and impriſoned according to his offence. *Lam.*631.

"To raſe a record is felonie; yet if a "Judge doe embezell or raſe a record, it is "but miſpriſion in a Judge. *Dal.*283. *Br. Coron.*174. *& Treaſon* 31.

"Embezelling of any record, writ return, "pannell, proceſſe, or warrant of Atturney

"in Chancery, Kings Bench, Exchequer, "Common pleas, or Treasurie, is felony in "the parties, their counsellers, procurers, or "abetters. *Dal. ibid.*

"*But it seemeth that Iustices of Peace have* "*not to doe with these felonies. Lam.* 549. *Cro.* "36. 8 *H.* 6. *c.* 12. *Dal.* 283. *for that these re-* "*cords doe not remaine with the Iustices of* "*Peace. Cro. ibid.*

## Recusants.

Wilfully absenting themselves from Church 12. moneths, contrary to 1 *El. c.* 2. and convicted, being of 16. yeares of age, are to be bound to the good behaviour, upon certificate of one Iustice of Peace to the Kings Bench, 1 *Eliz.* 2. besides other penalties. 23. *Eliz. Dal.* 104.

Every Iustice of Peace may give notice to any person to forbeare to receive or keepe such as shall obstinately refuse to come to the Church by the space of a moneth together. 35 *El. c.* 1.

Heire of a Recusant being a Recusant at his Ancestours death, conforming himselfe, and taking the oath of supremacie made 1 *Eliz.* before the Archbishop or Bishop of the Diocesse, shall be free from penalties for the recusancie of his ancestour. 1 *Jac. c.* 4.

Heire of a Recusant being under 16. years at the death of his ancestour, at or after 16. years becomes a Recusant, he is not to be freed of his ancestours penalties for recusancie, till conformity as aforesaid. 1 *Jac. c.* 4.

Two

Two parts of Popiſh Recuſants lands being ſeiſed for payment of 20 pound a month, the third is not to be charged with it, but is to deſcend to his heire, and the two parts to remaine in the Kings hands till he be ſatisfied thereof both for the anceſtour and heire. 1 *Jac.cap.*4.

Any ſending his children beyond the ſeas out of the Kings dominions to any religious houſe, to be inſtructed or ſtrengthned in Poperie, loſeth 100. pounds, and the perſon ſo going, or being there, and not returning within one yeare, and ſubmit, is diſabled to inherit, purchaſe, or take any lands or goods in his Majeſties dominions, til conformity. 1 *Jac.c.*4.

Eſtates in truſt for benefit of any ſent beyond the ſea to any religious houſe to be inſtructed in Popery, are void. 1 *Jac.c.*4.

« J. of P. not certifying at the next Qu. « Seſſions the oathes taken, of any reconci- « led to the See of Rome, upon his ſubmiſſi- « on, returning into the Realme, doth forfeit « 40. pounds. 3 *Jac.c.*5. *Lamb.*633.

Forfeitures upon the ſtatute of 1 *Jac.c.*4. againſt Popiſh Recuſants, halfe to the King, and half to the ſuer in any the Courts of Record at Weſtminſter by action of debt, &c. 1 *Jac.c.*4.

Popiſh Recuſant conforming himſelfe in comming to Church according to the law, and after is convicted for not receiving the Sacrament once every yeare, loſeth for the firſt yeare 20. pound, for the ſecond yeare 40. pound, for the third yeare 60. pound:

And if after conformity in receiving the Sacrament, he offend therein, he loſeth for every offence 60. pound, one moity to the King, the other to the Informer, to be recovered in any of the Kings courts at Weſtminſter or before the Judges of Aſſize, or Juſtices of the Peace at their Q. Seſſions by action of debt, &c. 3 *Iac. c.* 4. *Lam.* 418.

Conſtables and Churchwardens, or for want of them, the high Conſtable once every yeare, are to preſent the monethly abſence of Popiſh Recuſants from Church, with the names of the ſervants and children above 9. yeares old, or loſe 20. ſhillings for every offence, and upon their conviction to have 40. ſhillings out of their goods. 3 *Iac. cap.* 4. *Lam.* 616.

Clerk of the Peace is to record the Preſentment of Conſtables and Churchwardens for monethly abſence from Church, without fee, or loſeth 40. ſhill. 3 *Iac. c.* 4.

Offences upon any ſtatute for not going to Church or receiving the Sacrament, may be heard and be determined by the Juſtices of Peace at their Qu. Seſſions, as Juſtices of Aſſize might before. 3 *Iac. c.* 4. *Lam.* 617.

Upon an indictment for not comming to Church, or not receiving the Sacrament, Juſtices of the Peace at their Qu. Seſſions may by proclamation command the indicted to render his body to the Sheriffe before the next Qu. Seſſions or Aſſizes, and in default of appearance, then the ſame to be a ſufficient conviction. 3 *Iac. c.* 4. *Lam.* 616.

Popiſh Recuſant convicted of not comming

ming to Church according to law, ſhall in Eaſter or Michaelmas term next after the conviction, pay into his Majeſt. receit after the rate of 20. pound a moneth, and ſo to continue without any other indictment, till he conforme himſelfe, and in default of payment, all his goods, and two parts of his lands to be ſeized til conformity, leaving the manſion houſe to the third part. 3 *Iac.c.*4.

The King ſeizing two parts may not let it to any Recuſant nor for their uſe, and the leſſee muſt give ſecurity to the King, not to commit waſte. 3 *Iac.cap.*4.

Indictments againſt Popiſh Recuſants are not to be avoided for want of forme untill conformity. 3 *Iac.cap.*4.

Juſtices of Peace may hear and determine all offenees againſt the ſtatute 3 *Jac. cap.* 4. except treaſon. 3 *Jac.c.*4. *Lam.*617.

Attainder of felony upon the ſtatute of 3 *Jac.c.*4. of Popiſh Recuſants, barreth not dower, nor corrupteth blood. 3 *Jac.c.*4.

Any purſued for doing any thing warranted by the ſtatute of 3 *Jac.c.*4. may plead the generall iſſue, and give the ſpeciall matter in evidence. 3 *Jac.c.*4.

Husband is not chargeable with the forfeiture of the wife upon the ſtatute of 3 *Jac.c.*4. for not receiving the Sacrament, nor the wife after his death.

Popiſh Recuſant convict, comming to the Court where the King or his heire apparent is, without the Kings command, or warrant in writing from the Counſel, loſeth 100.l. 3 *Ia.c.*5. the one halfe to the proſecuter.

Recusants convicted or other forbearing for three moneths to heare divine service, now dwelling in London or within 10. miles (except tradesmen having no other dwelling) are to depart within 40. dayes, and if they come to dwell there within 3. moneths, then to depart within 10. dayes after conviction, and to deliver their names to the Maior of London or the next Justice of the County, or lose 100. pound, 3 *Jac. c.*5. the moity to the prosecuter.

Every one not repairing every Sunday to some usuall place appointed for Common prayer, there to heare divine service, upon conviction within one moneth after default, upon confession, or oath of one witnesse, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levie 12. pence for every default by distresse and sale of the offenders goods; and in default of distresse the Justice may commit him till he pay it, which is to be imployed for the poor. 3 *Jac c.*4. *Dal.* 105. *Coke* 11.61.*b.*

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the fame, retaine in their service any absenting themselves a moneth together from Church without reasonable excuse, lose 10. pound a moneth. 3 *Jac.c.*4.

The King or five Lords of the privy Counsel may by writing under the hands of the privie Counsel license a Popish Recusant

sint confined five miles, to travell out of his compasse for such time as is contained in the license, without inserting any cause. 3 *Jac. cap.* 5.

Popish Recusant confined to five miles, informing upon oath foure Justices of Peace that he hath necessary occasion to travell farther, and that he will make no causeless stayes, they with the assent of the Bishop of the Diocesse, Lieutenant or his Deputy under their hands and seales, and specifying in their license the cause and time of travell, may by license under their hands and seales give liberty to him to travell forth of his compasse, all other licenses to be void; and any travelling without such license, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35 *Eliz. c.* 2. 3 *Jac. c.* 5. *Dal.* 109. *Lam.* 365. and any one of the foure Justices may minister the oath, 3 *Iac. c.* 5. *Lam.* 296.

Statute 35 *El. c.* 2. confining Popish Recusants to certaine limits is hereby confirmed, and the proviso for licensing them to goe beyond their limits is hereby repealed. 3 *Jac. cap* 5.

Popish Recusants convicted, are not to practise the common or civill law, nor physick, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or officer in any Coure, nor to have any place of command, or office in warre, nor any office or charge in any ship, castle or fortresse of the Kings, on paine of 100. pound, one moity to the King, the

other to him that will sue. 3 *Jac.ca.5.*

Popish Recusant convicted, or whose wife is a Popish recusant, during recusancie not to execute any publike office or charge in the Realme. 3 *Jac.c.5.*

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her selfe according to law, forfeiteth to the King two parts of her dower or joynture, and is disabled to be executrix or administratrix to her Husband. 3 *Jac.c.5.*

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seised by the King. 3 *Jac.c.5.*

Recusant convicted, married otherwise then by a Minister lawfully authorized, and according to the orders of the Church, is disabled to be tenant by courtesie, or in dower, or by joynture, or to have widowes estate, or frankbanke, or any part of her husbands goods; and marrying any, by whom he is not entituled to be tenant by the courtesie, loseth 100. pound, one moity to the King, the other to him that will sue. 3 *Jac.c.5.*

Child of a Popish Recusant, not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth 100 pound, whereof one third part to the King, another to the poore of the parish, and the third to him that will sue. 3 *Jac.c.5.*

Popish Recusant not excommunicated, buryed otherwise then according to the orders

ders of the Church, his executors or administrators knowing it or causers of it, lose 20. pound, one third part to the King, one third part to the poore of the parish, and one third part to him that will sue for it. 3 *Jac.c.5.*

Popish Recusant convicted, during his conviction, to be from the ending of that Parliament disabled to grant any advowson, &c. or to present or nominate to any spirituall living, the same to remaine to the Chancellors of the Universities of Oxford and Cambridge, according to the severall shires limited in that statute, so that they present none having a former benefice with cure; if they doe, the same to be void. 3 *Jac.c.5.*

Penalties upon the statute of 3 *Jac.c.5.* against Recusants to be recovered in any his Majesties Courts of Record by action of debt, bill, plaint, or information, without essoine, protection, or wager of law. 3 *Iac. cap.5.*

Married woman under Baronesse, convicted of not comming to Church, and of not receiving the Communion, who doth not within three moneths after conforme her selfe, to be committed by two Justices of the Peace, one being of the Quorum, untill conformity, unlesse her husband pay 10. pound a moneth to the King, or the third part of his lands. 7 *Iac.c.6.*

The penalty of 12. pence, and of 20. l. a moneth shall be both of them paid by a Recusant convict. *Dal.*106. *Co.* 11.63.*b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who repaireth

paireth not to the place of his dwelling, or place of his birth, there to notifie himſelfe to the Miniſter and Conſtables according to the ſtatute of 35 *Eliz.* or afterwards remove 5. miles from the ſame, (if upon apprehenſion he conform not himſelfe within three moneths) to abjure the realme, and aſſigne him his time and haven. 35 *El.c.*2. *Dal.*109.

## *The forme of the Oath.*

*You ſhall ſweare you ſhall depart this Realm of England, and all other his Majeſties dominions, and that you ſhall not returne hither or come againe into any of his Majeſties dominions without licenſe of our Soveraigne Lord the King, or of his heires; ſo help you God.* Dal.109. Stam. 119.

Every ſuch Recuſant that refuſeth to abjure, or after abjuration doth not within the time appointed goe to ſuch haven and depart, or after ſuch abjuration returneth without his Majeſties ſpeciall licenſe, in every ſuch caſe ſhall be adjudged a felon. 35 *El.c.*2. *Dal.*109. *Lam.*419. 1 *Iac.c.*25.

The Juſtices of Peace before whom ſuch abjurations ſhall be made, muſt preſently cauſe the ſame to be entred of record before them, and certifie it at the next generall gaol-delivery in the ſaid county. *ibid.*

The Biſhop of the dioceſſe or any one Juſt. of Peace, or Miniſter of the pariſh where ſuch convicted Recuſant ſhall be, may require his ſubmiſſion. *ibid.*

Juſtices of Peace at their Quarter Seſſions may require, heare and determine of all Re-

Recuſants both for not comming to Church, and not receiving the Sacrament according to law, as Juſt. of Aſſize and gaol-delivery may doe, and at the Seſſions (in which ſuch indictment ſhall be taken) make proclamation to render their bodies to the Sheriffe, and before the next Quarter Seſſions, at which if the offender make not appearance of record, it ſhall be a conviction. 3 *Iac. cap.* 4. *Lam.* 616.

« Popiſh Recuſant convicted is diſabled « to be executor, adminiſtrator, or guardi- « an: the guardianſhip to goe to the next « of kin to whom the land ſhould not come, « being no Recuſant; and he to accompt to « the heire, as the caſe ſhall require. 3 *Iac.* « *cap.* 5.

« Recuſants armour, gunpowder and mu- « nition by warrant of foure Juſt. of P. in « their generall Seſſions ſhall be taken from « them, (other then neceſſary weapons al- « lowed by the ſaid Juſtices for their de- « fence) and kept at the Recuſants coſts, « where the Juſtices ſhall appoint. And the « Recuſant, refuſing to tell what armour he « hath, or diſturbing the delivery thereof, « forfeiteth the armour, and is to be impri- « ſoned for 3. moneths without bayle. 3 *Iac.* « *c.* 5. *Lam.* 617, 618.

## Regrator.

Regrator is he that buyeth live or dead victuals, tallow, or candles in the market, and ſelleth the ſame there, or within 4. miles. 13 *El. c.* 25. *Lam.* 450. 5 *Ed.* 6. *c.* 14. 5 *El. c.* 12.

Releaſe.

Juſtice of Peace compelleth one of his owne motion to give ſurety of the Peace untill a certaine day, he may by like diſcretion releaſe it before the day. *Lam.* 110. *Cro.* 139. *b.* nu. 16. *Dal.* 179.

Party bound generally to keepe the Peace without any day limited, it is for life, and no man can releaſe it. *Lam.* 110. *Dal.* 179. *Cro.* 142. *b.* *Brook Peace* 17.

Recogniſance is taken at the ſuit of *A.* to keep the Peace againſt him onely, *A.* may releaſe it before the ſame Juſtice or any other that will certifie it. *Lam.* 110. *Dal.* 179. *Cro.* 139. *b.* nu. 10. 169 *a.* That releaſe being certified at the next Quarter Seſſions will diſcharge the party bound of his appearance, ſo that he ſhall not be called upon for his recogniſance. *Dal. ibid.* *Cro.* 139. *b.* nu. 15.

Recogniſance is taken *verſus cunctum populum, præcipuè verſus A.* yet *A.* may releaſe it before any Juſtice: *tamen quære*, *Lam.* 110. *Cro.* 142. *b.* *Bro. Peace* 17. *Dalt.* 180.

Recogniſance is taken by diſcretion or upon ſuit, the King cannot releaſe or pardon it before forfeiture. *Lam.* 111. *Cro.* 140. *b.* 141. *a.* *Dal.* 180.

The Peace being releaſed, the recogniſance muſt not be cancelled, but certified at the Seſſions with the releaſe, leſt peradventure the Peace was broken before the releaſe made. *Lam.* 111. *Dal. ibid.* *Cro.* 139. *b.* nu. 16. 169. *a.*

Whether the good abearing taken upon complaint may be releaſed by any ſpeciall perſon. *Quære Lamb.* 123. *Dal.* 197.

Nei-

Neither the Juſtice of the peace, nor the party can diſcharge a recogniſance of the Peace by the releaſe out of the Seſſions; for firſt the recogniſance is made to the King, and therefore none but the King can releaſe or diſcharge it. Secondly, the recogniſance is taken for the parties appearance, and the releaſe cannot diſcharge the appearance. *Dal.* 180. *Brook Peace* 17.

The appearance is requiſite, notwithſtanding any releaſe made; firſt, for the ſafety of the recogniſance; ſecondly, that others may object in open Seſſions, if he have broken the Peace, that he may be indicted thereupon. *Dal.* 180.

*E contra Cro.* If the Juſtice of Peace at the Seſſions doe certifie the releaſe, by this the obliged is diſcharged, and ſhall not be called upon for his recogniſance, nor his default recorded; for the principall cauſe of the recogniſance was the keeping of the Peace, the which is diſcharged by the releaſe which is certified at the Seſſions, and then the appearance is but acceſſary to the ſame, and the intent is onely that then he ſhould finde new ſurety if the party will not releaſe; and this is the common uſage. *Cro.* 139. nu. 15.

*Vide plus* Recogniſance, & Forfeiture.

## Religious houſes.

The owner of the ſite of a religious houſe diſſolved, in yearly value under 200. pound, muſt keepe a continuall houſe there, or loſe

20.

20. nobles a moneth, to be enquired of and determined at the Quarter Seſſions. 27 *H.*8. *c.*22. 5 *El.c.*2. *Lam.*471.

## Replevin, *vide* Bailment.

## Reſcous of a Felon.

Reſcous is to help a priſoner to get away; and if it be a felon, it is felony. *Lamb.* 229. *Dal.*274,275.

Reſcous of a felon before arreſt, is no felony, otherwiſe after arreſt. *Lam.*230. *Dal.* 276. *Quare Stam.*31.

Reſcuing a priſoner going to the gallowes, is felony. *Dal.*276.

A warrant being granted by a Juſtice of the peace for unlawfull hunting of Deere or Conies, to make reſcous thereupon, is felony. *Dal.*75.

Reſcous againſt an officer or perſon authorized to execute the ſtatute of 39 *El.c.*4. loſeth 5. pound, and is to be bound to his good behaviour. *Dal.*128.

« If a ſtranger take one out of priſon with « the priſoners aſſent, if he be in for felony, « it is felony by the common law in the re- « ſcuer, and he is a principall by the ſtatute « *De priſonam frangentibus. Cro.*38.*a.*nu.2.

« One is in the ſtocks for ſuſpition of fe- « lony, and is let out by a ſtranger; it is fe- « lony, although the party who eſcaped, is « not indicted. *Cro.*35.*a.*nu.3.

Reſti-

None shall have restitution but such as are put out of house or land. *Dal.*214. *Cro.*162. *b. Lam.*153.

If it be found upon enquiry that any have entred or held with force, contrary to the statute 8 *H.*6.*c.*9. the Justice of peace may resciſe and put the party so put out in full possession. *Cro.*161.*b. Dal.* 214. but the putting out must first be found. *La.*152. *Cro.ibid.*

The Justice of peace needeth not to stay or stand upon the right or title of either party. *Dal.*214. *Cro.*164.*a.*

No restitution is to be made where there was onely a possession in law. *Lam.*153. *Dal.* 217.

In a restitution it is not enough that the putting out be found, unlesse the indictment doe also containe in it *adhuc extra tenet. Dal.* 214. *Cro.*163.*b. Lam.*153.

Restitution ought to be made to none other then the party put out. *Dal.*214. *Cro.* 162.*b. Lam.*153.

After the entring or detaining with force found, the Justice of peace may by himselfe or precept to the Sheriffe under the test of himself alone restore the party grieved to his possession. *Dal.*216. *Lam.*156.

None can make restitution but they before whom the indictment is found, but the Justices of the Kings Bench, either upon certificate made by the J. of P. before whom it was found, of the presentment, or if the said presentment or indictment be removed by *Certiorari. Dal.*216. *Lam.*157, 158.

If the Sheriffe returne upon a precept or writ

writ of restitution that he cannot make restitution for resistance, he shall be amerced, for he may take the power of the county. *Dal.* 216. *Lam.*158. *Cro.*163.*b.*

Justice of peace before whom the presentment was made, dyeth before restitution; *quære*, whether the Justices at the Sessions can award it. *Lam.*157.

Justices of peace ought not to award restitution where the indictment is insufficient in law, either in matter or forme. *Dalt.* 215.

In the indictment, 1. not onely an entry must be, but also a putting out: 2. the indictment must expresse the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable: 3. it must say, *Et adhuc extra tenent: 4. Expulerunt & adhuc extra tenent:* 5. one of these two words, *manu forti*, or *cum multitudine. Dalt.* 214, 215. *Cro.*169.*b.* 163.*b. Lam.*153.

If error or insufficiency be in the indictment taken before Justices of peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *supersedeas* if the Sheriffe have not made restitution before. *Dal.*215. *Cro.*162.*a.*

If restitution be made by Justices upon an insufficient indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Just of peace. *Dal.*215. *Cro.*168.*a.*

*Causes to stay restitution.*

1. No restitution upon an indictment to be

be made, if the party indicted hath had the occupation or been in quiet poſſeſſion three years together next before the day of the indictment found, and his eſtate not ended, which the party may alledge for ſtay of reſtitution, untill it be tryed, if the other will traverſe or deny the ſame. 31 *Eliz. cap.* 11. *Dal.* 219.

2. *Certiorari.*

3. A traverſe : *quære Lam.* 158.

4. Inſufficiency of the indictment.

5. Inſufficiency of the Jurors not having 40. ſhill. land by the year. *Dal.* 218. *Lam.* 152. *Cro.* 165. *b. Quære.*

Juſtice of peace, upon indictment found, may give reſtitution as formerly to freeholders, to tenants for yeares by copy of court, guardians in Knights ſervice, tenants by *elegit*, ſtat. Merchants or ſtaple. *Dal.* 207. 21 *Iac. c.* 15.

« The diſſeiſee outeth the diſſeiſor by « force, the diſſeiſor ſhall be reſtored. *Lam.* « 148. *Dal.* 217.

« Upon traverſe the Juſtice may ſtay re« ſtitution. *Dal. ibid.*

« The diſſeiſee entreth peaceably, and kee« peth out the diſſeiſor by force ; the diſſei« ſor ſhall not be reſtored, becauſe the diſſei« ſor had the younger title. But the diſſeiſee « ſhall be impriſoned and fined becauſe he « held with force. *Cro.* 162. *b.* & 164. *b.* « *Dal.* 217.

« The diſſeiſee entreth quietly upon the « diſſeiſor, and ſo abide together divers « dayes, and then the diſſeiſee putteth out « the

« the disseisor by force, the disseisor shall « not be restored. *Dal.* 217. *Cro.* 163. *a. b.*

« Wife, children, and servants do preserve « a possession, but cattle on the ground doe « not. *Dal. ibid. Cro.* 164. *b.*

« Two are in possession by severall titles « in one house, the law judgeth him in pos- « session who hath the best right to the pos- « session: As *A.* enters wrongfully upon *B.* « and both doe continue in the house; af- « terwards *B.* puts out *A.* with force; *A.* « shall not be restored, for *A.* never gained « possession by his entry. *Dal.* 217. *Cro.* « 163. *b.*

« Two are joyntenants or tenants in com- « mon, whereof one forcibly putteth the o- « ther out of possession: *Quære* what a Just. « of peace may doe therein for that his entry « and possession is lawfull. *Dal.* 217. *Pax re-* « *gis* 39.

## Restitution of stolne goods.

He that hath goods stolne, if the felon be thereof indicted and arraigned, and found guilty thereof, or otherwise attainted by reason of evidence given by the party robbed, or the owner of the goods, or other by their procurement, then the goods shall be restored though they never made fresh suit. *Dal.* 306. *Cro.* 191. *a. Lam.* 586.

And the Justices have power to award writs of restitution. 21 *H.* 8. *c.* 11. *Lam.* 586. *Cro.* 191. *a. Br. Restitution* 22. *Dal.* 306.

Executors shall have restitution after attainder

vnder or conviction upon evidence by their means given. *Dal.*306.

Three are robbed, reſtitution ſhall be onely to ſuch for whoſe goods the felon was indicted. *Dal.*306. *Cro.*191.*a.*

A felon ſtealeth from ſeverall men, is attainted onely at the ſuit of one; the King ſhall have the goods of thoſe, at whoſe ſuit he was not attainted. *Dal.*306.

There be divers theeves, and onely one principall is attainted, the robbed ſhall have reſtitution. *Dal.*307.

If the felon ſold the ſtolne goods in market overt, or in a faire, no reſtitution, except he that bought them were privy to the felony. *ibid. Cro.*191.*a.*

No reſtitution of ſtolne goods, if he know not the felon. *Dal.*307.

No reſtitution if the felon leaveth the goods and eſcapeth, and the Lord of the Manour ſeiſeth them. *Dal.*307.

If the felon had not the goods in his poſſeſſion when he fled, but left them elſewhere, they are not waived, but the owner may take them whereſoever he findeth them. *Co.*5.109. *Dal.*307.

« A man had his horſe ſtolne, and ſo he « publiſhed it, but knew not who ſtole it, ſo « that he could not indict him, &c. It ſeem- « eth that he ſhall not have his horſe againe, « for it was his folly to publiſh that it was « ſtolne, for he might have demanded it, « as loſt. And when he knew who tooke his « horſe, he might afterwards indict him. *Cro.* « 191.*b.*

Returne.

Recognisance taken by the Just. of peace *ex officio*, ought to be returned at the next Q. Sessions. *Lam.* 109. *Dal.* 173. *Cro.* 139. *a. Supplicavit* is to be returned into the Court whence it came. *Lam.* 107. *Dal.* 177.

Returne of a recognisance upon a *supplicavit*, is not of necessity till *Certiorari*. *Lam.* 109.

Returne of Jurors, *vide* Jurors.

*Vide* Recognisance, & Release, & Certificate.

## Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawfull act, and doe accordingly execute or attempt the same. *Lam.* 176. *Cro.* 61. *a.* nu. 2. *Dal.* 221.

"Three or moe enter into land with force, "&c. where their entry is lawfull, it is a riot. "*Dal.* 226. *Cro.* 64. *a.* nu. 49.

### *What Assemblies shall not be said a Riot.*

1 Sheriffe or Bailiffe levie people to serve the Kings writs. *Lam.* 178. *Dal.* 223.

2 Constable gathereth assistance of men with weapons to part an affray. *Lam.* 178.

3 A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to market. *Lam.* 179. *Dal.* 224. *Cro.* 64. *a.* nu. 42.

4 Many

4 Many assemble together, and they know not to what end. *Lam.* 179. *Cro.* 61. *b.* nu. 7. *Dal.* 222.

5 Many assemble at a Church-ale, or at a Christmasse dinner, and they suddenly fall out and fight. *Lam.* 179. *Dal.* maketh *quære* 223.

6 A number of women and children under the age of discretion flock together for their owne cause, unlesse moved by a man of discretion to doe some unlawfull act. *Lamb.* 180. *Dal.* 226.

7 To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers, *Lam.* 178. yet if he use threatning words, as to say he will have it in spight of the other, or though he die for it, his doing may then become a riot. *Dal.* 225. *Lam. ibid.*

8 To meet to drink at an alehouse, to play at football, bucklers, beare or bul-baiting, dancing, bowles, cards or dice, or such like disports. *Dal.* 223. *Lam.* 178. *Cro.* 61. *b.* nu. 7.

9 To use harnesse on Midsummer day at night in London, or on May-day in the countrey. *Lam.* 178. *Cro.* 64. *a.* nu. 43. *Dal.* 223.

The Master intending a riot, taketh with him his ordinary servants who know not his intent, it is no riot in the servants. *Lam.* 179. *Cro.* 61. *b.* 62. *a.* nu. 13. *Dal.* 222.

A Jury falleth out and fighteth, it is no riot. *Dal.* 222 *Lam.* 180.

If any assemble for any disports, as aforesaid,

said, with intent to breake the Peace, and make an affray, or doe other outrage, it seemeth to be a riot in so many as come with such intent. *Dal.*223.

*Quere* if falling out suddenly at such a meeting, and then falling to take parts, be a riot, *Dal.*223,224. But if by agreement they meet againe and fight, it is a riot. *ibid. Vide Dal.*224. *Cro.*61.*b.*nu.12.

It can be no riot, except there be an intent precedent to doe some unlawfull act with force. *Dal.*222. *Cro.*62.*a.*nu.13.

Yet if a man goe to Sessions or market with his servants in harnesse, though there be no intent to commit a riot, yet the manner maketh a riot. *Cro.*61.*a. Vide* 2 *E.*3. *cap.*3. *Dal.*225.

## *What one Iust. of Peace is to doe in case of Riots.*

He may prevent a riot before it be done, or stay it in the doing, and in the doing may take and imprison the rioters, and binde them to their good behaviour. *Dalt.* 109. *Lam.*181.

A riot being done, Justices of peace can neither record the riot, nor make enquiry, nor assesse the fine, nor award processe, nor meddle with it, but only as a trespasse against the Peace, or upon the stat. of Northampton of forcible entry. *Dal.*110. *Lam.*181.

Justices of peace sitting in a judiciall place, and seeing a riot, may command them to be arrested, and record it, and it con-

concludeth the offenders. *Dal.*110. *Cro.* 65. nu.54. *Lam.*385.

But a Justice of peace in another place seeing a riot, and recording it, the parties may traverse it. *ibid. Cro.*65.*a.*nu.53. *Lam.* 386.

Every Justice of peace being of and in the county, having notice of any riot, ought to have a care to execute the statute 13 *H.* 4. c.7. *viz.* that the rioters be arrested, &c. and removed, otherwise the next Justices forfeit 100. pounds a piece, and every other Justice in whom there shall be default, fineable in the Star-chamber. *Dal.* 110. *Cro.*124. *a.*nu.22.

One Justice of peace may arrest rioters, enforce them to find sureties for the Peace or good behaviour, or in default commit them to prison. *Dal.*112. *Cro.*157.*b. Lam.* 181.

A Justice of peace not finding the rioters come to the place, may leave his servants to restraine the rioters when they come, or else arrest them if they offer to break the Peace. *Dal.*110. *Lam.*181. *Br. Peace* 7.

If the Just. of Peace be sick, he may send his servant to represse a riot, or to arrest such offenders, and bring them before him to find sureties for the peace, and his command by word is sufficient. *Dal.*110. *Cro.*64.*a.* nu. 45. & 148.*b.*

One Justice of peace may cause all statutes for suppressing of riots to be put in execution. *Dal.*111.

If the riot be notorious, it is not safe to

ſtay complaint or information. *Dal.* 111.

## *What two Iuſtices of Peace may doe in a Riot.*

They ought to ſend for the Sheriffe or Vnderſheriffe, if none of them come. *Dal.* 112. *Lam.* 327.

If one or two next Iuſtices doe come, and not the Sheriffe or Vnderſheriffe, ſuch as come ſhall be excuſed of their fine of 100. pound. *Dal.* 111. *Lam.* 327, *Cro.* 63. *b.* nu. 35.

If one Iuſtice of peace in the county ſhall execute the ſtatute of 13 *H.* 4. *c.* 7. it ſhall excuſe the next Iuſtices. *Dal.* 112. *Lamb.* 326, 327.

Two Iuſtices of Peace preſent without the Sheriffe, are fineable if they do not all which by the ſtatute of 13 *H.* 4 *c.* 7. ought to be done. *Dal.* 112. *Lam.* 327.

« If two Iuſtices of Peace (without the « Sheriffe or Vnderſheriffe) ſee perſons com« mitting a Riot, they may cauſe them to be « arreſted, and record it. *Lam.* 319. *Quære.*

## *The particulars which the two next Iuſtices of Peace with the Sheriffe or Vnder-ſheriffe muſt do upon the ſtatute of* 13 *H.* 4. *c.* 7. *Dal.* 113.

1 They muſt goe to the place where the riot is. *Dal.* 113.

2 They ſhall take the power of the county (*viz.*

(viz.) all above 15. years of age, under the degree of Barons, upon paine of imprisonment, fine and ransome. *Dal.*114. *Cro.*157.*b.* *Lam.*314,315.

It is not good to raise the power of the county without certaine information and knowledge, yet they may doe it upon information, (though it be false, and be excused) or without information, if when they come they finde one. *Dal.*114 *Lamb.* 315, 316.*Cro.* 64.*b.*nu. 49.

3 They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons. *Dal.* 114. *Lamb.*316, 317.

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth. *Dal.*115.

Such as they meet comming from the place riotously arrayed, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them. *Dal.* 114. *Lam.*316.*Cro.*63.*a.*nu.32.

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that processe may come from thence. *Dal.*115. *Lam.*318.

The Justices may grant a warrant for such as they saw escaping, to be bound to the good behaviour. *Dal.* 115. *Cro.*196. *a.* nu. 27.

And so they may doe upon information,

but it is beſt to doe it upon enquiry, and ſo to fine them. *Dal.*115.

In execution of the ſaid arreſt of rioters, the Juſtices may juſtifie the beating, wounding, or killing of any the rioters which reſiſt or will not yeeld. *Dal.*115. *Lam.* 316. *Cro.*62.*b.*nu.20. & 158.*b.*

4 After arreſt the Juſtices, Sheriffe or Under-ſheriffe ſhall record the riot in writing, (*viz.*) all that ſhall be done in their preſence againſt law, which ought to be formall and certaine, as time, place, number, weapons, manner, &c. *Dal.*119. *Cro.*63.*a.*nu.31. *Lam.* 316, 317.

*The form of the record, vide Dal.*401. *La.*220.

If in going to ſee a riot, another riot happen in their preſence, they may record it, arreſt and impriſon the offenders. *Dal.* 115. *Lam.*318.

If the rioters make a riot upon the Juſtices, they may record it alſo. *Dal.*115.

Juſtices record a riot, and upon examination it appears no riot, or ſaw it not, or there was no riot, yet the parties are concluded. *Dal.*116. *Cro.*63.*a.*nu. 33. 65.*a.*nu.56.130.*a. Lam.*317.

5 The Juſtices are preſently to commit rioters to the gaole, and the power of the county ought to be aiding to the Sheriffe or Under-ſheriffe. *Dal.*116,117.

None may commit the rioters but the Juſtices who had the view. *Dal.* 116.

If the Juſtices, and Sheriffe, or Under-ſheriffe commit to priſon the offenders, and doe not record the riot, every one of them loſeth

loseth 100. pound, or do record the riot, and doe not commit the offenders. *Dal.* 117. *Cro.* 61.*b.*nu. 10.

6 The said Justices and none other shall assesse the fine upon the offenders, which by the statute of 1 *H.* 5. *c.* 8. ought to be of good value, that thereout the charges of the Justices and other officers maybe born, yet must it be reasonable and just. *Dal.* 116. *La.* 317. *Cro.* 161.*a.*nu. 45.

The fines must be imposed upon every offender severally. *Dal.* 117. *Co.lib.* 11. 43, 44.

The fine must be estreated into the Exchequer, *Dal.* 117. and then to deliver the offender as it seemeth. *ibid.*

The Justices, as it seemeth, may out of the fines pay the charges of the said Justices, and of the Jury who made the enquiry, for their diet, and the Sheriffes fees; and the Justices Clerk who maketh up the record, may have his fees out of that money, or rather may take of every offender 12. pence when they pay their fines. *Dal.* 119.

Or the Justices may record the riot, commit the offender, and after certifie the record to the Assizes, Sessions or Kings Bench. *Dal.* 117.

The record may be delivered at the Sessions to the Clerk of the Peace, together with the residue of the money remaining of the fine. *Dal.* 119.

Where Justices of Peace are remisse in punishing the rioters, the Lords in the Star-chamber may and do often assesse greater fines for the same riot. *Dal.* 120. *Cro.* 63.*a.*nu. 30.

7 If the riot was not committed in the presence of the Justices, or the rioters gone before their comming, two Justices at least within one monet' next after must enquire thereof by a Jury returned by the Sheriffe, and record the riot being found, which is to remain with one of the said Justices. *Dal.* 117. *Lam.* 321.

*The forme of such enquiry, vide Dal.* 4^2. *Lam.* 329.

Enquiry shall not be unlesse the rioters be gone. *Dal.* 117.

It is not necessary that one of the Justices of Peace be of the Quorum. *Dal.* 118. *Cro.* 62. *b.* nu. 25.

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100. pound: yet if the Jury be charged within the moneth, and have day after to give up the verdict, the statute is not broken. *Dal.* 118. *Lam.* 322.

At the inquiry the Sheriffe or Under-sheriffe must be present, but then as Ministers onely. *Dal.* 118. *Lam.* 321.

The Justices assemble to enquire within the moneth, the parties agree, and the Justices dismisse thereupon the Jury, the Justices shall be fined, though none will solicite the Inquest, or give evidence to the Jury; for the Justices ought to proceed *ex officio*, seeing some of the Jury may have knowledge of the riot, and they ought to make proclamation if any will give evidence. *Dal.* 118. *Lam.* 322.

If at the parties request the Justices dismisse the

the Jury without enquiry, they are fineable in the Star-chamber to the King. *Dal.* 118. *P.R.*29.

The Juſtices may binde to the good behaviour the parties complaining of the riot, who cauſed them to meet and will not proſecute for the King, but have agreed it. *Dal.* 118.

Though the Juſtices go not to ſee the riot, yet they may enquire within a moneth after. *Lam.*321.

8 After enquiry had and the riot found, the Juſtices have power to heare and determine the ſame, (*viz.*) Firſt to make out proceſſe againſt the offenders under their owne teſt. Secondly, to aſſeſſe the fine. Thirdly, to commit till they have payed the fine. Fourthly, to deliver them after payment of their fine or ſureties taken by recogniſance, or otherwiſe they may receive their traverſe, if the matter will ſerve, and diſmiſſe them. *Dal.* 119. *Lam.*323. *Br. Impriſ.*100.

But the Juſtices ſhould ſend ſuch indictment or inquiſition to the next Quarter Seſſions or into the Kings Bench together with the ſaid traverſe there to be tryed. *P.R.* 30. *Dal.*119.

9 If the riot upon enquiry cannot be found, the Juſtices and Sheriffe muſt certifie into the Star-chamber, or Councell board, or Kings Bench, the whole fact and circumſtance, with the names of the offenders *ſub pœna*. *Dal.* 120. *Lam.* 323, 324. *Præmunire Br.*1.

The certificate muſt be made within a

moneth after the enquiry, or elſe it is of no force. *Dalt.*121. *Lam.*324.

Though two Juſtices with the Sheriffe ſee the riot, yet two other Juſtices, may make the enquiry, and they all together, or the firſt two, or laſt two, with the Sheriffe, or Under-ſheriffe, may make the certificate. *Dal.* 121. *Lam.*325.

Where the ſeverall certificates be made, or certificate and enquiry doe diſagree, the beſt for the King ſhall be preferred. *Dal.*121. *Lam.*325.

If the Jury find but ſome guilty, the Juſtices may certifie the reſt. *Dal.*121. *Lam.*325.

Any materiall thing left out in the inquiſition, may be ſupplyed in the certificate. *Dal.*121.

*Quere* if after enquiry and before certificate the Sheriffe die, or one of the Juſtices be put out of Commiſſion, whether a certificate can be made. *Dal.*121. *Vide Lam.*326.

Upon the certificate of two Juſtices and the Sheriffe, the Lord Chancellour may grant a *Capias* to attach the offenders. *Dal.*121. *Lam.* 313.

Upon default of the Juſtices and Sheriffe in not executing the ſtatute 13 *H.*4.*c.*7. the party grieved may have a Commiſſion out of the Chancery, to enquire of the riot, as alſo of the Juſtices and Sheriffes default. *Dalt.* 121.

« Alſo the Lo: Chancellour may ſend his « writ to the Juſtices and Sheriffe to execute « the ſtatute of 13 *H.*4.*c.*7. *Dal.*121.

« The Juſtices and other officers ſhall doe « their

« their offices at the Kings charge in going,
« tarrying & returning, in the doing of their
« said offices, by payment thereof to be
« made by the Sheriffe for the time being,
« by Indenture betwixt him and the said Ju-
« stices and other officers aforesaid to be
« made of the payment thereof, whereof the
« Sheriffe upon his accompt in the Exche-
« quer shall be allowed. 2 *H.*5.*c.*8.

« The Sheriffe is to returne 24. whereof
« every one hath lands and tenements within
« the same Shire of 20. s. *per an.* of charter
« lands, or 26. s. 8. d. of copihold, or of both
« *ultra repriſas*; and must returne for issues
« upon every one at the first day 20. s. at the
« second 40. s. if they doe not appeare and
« be sworn the first day. And the Sheriffe or
« Under-sheriffe not returning persons suf-
« ficient, loseth for every one 20. l. to the
« King. 19 *H.*7.*c.*13.

« If the riot, rout or unlawfull assembly
« be not found by the Jury by reason of any
« maintenance or embracery of the Iuries:
« the Iust. Sheriffe or Under-sheriffe, (besides
« such certificate to be made by 13 *H.*4)
« shall, in the same certificate, certifie the
« names of the maintainers or embracers,
« upon paine of every Iustice, Sheriffe or
« Under-sheriffe 20. l. (if they have not rea-
« sonable excuse) which certificate shall be
« of force, as if the matter therein found
« were found by the verdict of twelve men.
« And every maintainer and embracer
« forfeiteth twenty pound, and to be com-
« mitted to ward, to remaine during the

« discretion of the Iustices. 19 *H.7.ca.*13.

« Indictment of a riot is not good unlesse « it say *contra formam statuti inde editi & pro-* « *visi*. *Cro.*102.*a.*nu.19.

## Rivers.

Every Justice of Peace is a conservatour of rivers within his county, and may survey the weares in rivers that they be of reasonable wideneſſe. *Lam.*189.

## Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steale them, and putting him in feare thereby, though the thing taken be but to the value of an half-peny. *Cro.*33.*b.*nu.1. *Lam.* 267. *Dal.*260.

But if a felon take money from me in the high-way, and shall not put me in feare, it is not robbery. *Dal.*260. *Cro.*34*b.*nu.12. *Lam.* 266.

If a thiefe take nothing from my person, but assaulteth me, whereby he getteth any thing from me, it is robbery. *Dal.*260. As,

1. I cast my purse on the ground, and he taketh it away. *Lam.*268. *Dal.*261.

2. After assault he prayeth me to give him a peny, and I doe so. *Dal.*261.

3. If upon assault I deliver my purse. *Dal.* 261. *Cro.*34*b.*nu.10. *Lam.*267,268.

4. If flying from a thiefe, I cast my purse into a bush, and he doth afterwards take it away.

away. *Dal.*261. *Cro.*35.*a.*nu.10. *Lam.*268.

5. If upon aſſault I flie away, and my hat fall, and the thiefe carry it away. *Cro.*35.*a.*nu.18. *Dal.*261.

6. If a thief bid me deliver my purſe, (without any force uſed) and I deliver it, and he finding but two ſhillings in it, delivers it againe. *Cro.*34.*b.*nu.10. *Dal.*261.

7. If by threats he compell me to ſweare to bring him money, and afterward I bring him the money accordingly. *Dal.ibid. Lam.*268.

*In ſome caſes it is robbery, though the thiefe neither take it from my perſon, nor aſſault me.*

As, 1. A thiefe taketh my goods openly in my preſence againſt my will, the feare is the like as if it had beene from my perſon. *Cro.*34.*a.*nu.5. *Lam.*269. *Dal.*261.

2. To take a horſe or a beaſt out of my paſture, I looking on, if the felon put me in feare. *Dal.ibid. Cro.*34.*b.*nu.5.

3. To make it robbery, the perſon muſt be put in feare. *Cro.*34.*b.*nu.12. *Dal.*261.

4. Two come to rob me, and one acteth it, being out of the ſight of the other, who after returneth to him; it is robbery in both. *Cro.*34.*a.*nu.10. *Lam.*270. 28 *El. Pudſeys caſe. Dal.*262.

To aſſault one to rob him without taking any thing, is not robbery. *Cro.*34. *a.* nu. 9. *Dal.*261.

After a robbery committed, the hundred muſt anſwer the loſſe, if the robbers be not taken within 40. dayes: if it be done in the diviſion of two hundreds, both hundreds and the

the franchiſes within them muſt be anſwerable, and the hundred wherein defect of freſh ſuit is, the one moity. *Dal.*131. 27 *El.c.*13.

No perſon robbed ſhall bring any action upon the ſtatute of Hue and Cry, except he be firſt examined within 20. dayes next before the action brought, upon his corporall oath before ſome one J. of Peace of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if hee confeſſe he knoweth any of them, then ſhall he before ſuch action brought, enter into recogniſance before the ſaid Juſtice, effectually to proſecute ſuch perſons by indictment or otherwiſe according to the due courſe of the lawes of this Realme. 27 *El.c.*13. *Lam.*202. *Dal.ibid.*

After robbery committed, the robbed ſhall not recover againſt the hundred, except 1. with all convenient ſpeed he give notice of the robbery to ſome inhabitant neare to the place where the robbery was committed.

2. Hee commence his action within a year and a day next after ſuch robbery committed.

3. He be examined *ut ſuprà*, before a Juſt. of Peace. *Dal.*131.

Any two Juſtices of Peace in the hundred, one being of the Quorum, may aſſeſſe all towns and pariſhes in the ſaid hundred & liberties therein, upon recovery & execution had againſt any of the hundred, towards an equall contribution; which money the Conſtable muſt deliver to the ſame Juſtices within

within ten dayes after collection, and they upon requeſt, to thoſe to whoſe uſe it was collected. *Dal.*122. *Cro.*197.*a.*

And the hundred ſhall be aſſeſſed in like ſort in default of purſuit of freſh Hue and Cry. *Dal.ibid.*

Robbery in a houſe doth not charge the hundred, whether it be done in the day or in the night. *ibid.*

The hundred is diſcharged upon taking of any of the offenders by purſuit, *Dal.*133. ſo if the party robbed take any of the offenders after Hue and Cry made. *Dal.ibid.*

## Robbing of an houſe.

1. Robbing a houſe or any out-houſe, as a barn or ſtable in the day, to the value of 5.ſhil.

2. Robbing a houſe by day or by night, any perſon being therein, and thereby put in fear.

3. Robbing any perſon in any part of his dwelling houſe, the owner or dweller, wife, children, or ſervants being in any place within the precinct of the ſame, ſleeping or waking.

4. Robbing any booth or tent in faire or market, the owner, his wife, children or ſervants being in the ſame, ſleeping or waking. *All theſe are as penall as Burglary. Dal.*287. *Lam.*265. 39 *El.c.*15. 21 *H.*8.*c.*1. 5 *E.*6.*c.*9.

## Rogues.

All perſons hereunder mentioned, being above the age of 7. yeares, may be puniſhed as rogues. *Dal.*123. 39 *El.c.*4.

1 All

1 All going about begging upon any pretence or colour, though licenſed by any ſubject, except in ſome particular caſes after mentioned. *Dal. ibid. Lamb.* 442.

2 All going about the countrey uſing any ſubtile craft or unlawfull games, as fortune-tellers, juglers. *Dal.ibid.*

3 All proctours, patent gatherers, or collectors for priſons and hoſpitals. *La.* 442. *Dal.ib.*

4 All fencers, bearwards, common-players of interludes, and minſtrels wandring abroad. *Dal. ibid. Lam.* 443. 1 *Jac.c.*7.

5 All pedlers, pety chapmen, tinkers, and glaſſe-men wandring abroad. 1 *Jac.c.*7. *Dal. ibid. Lam.*443. 21 *Jac.c.*28.

6 All wandring labourers able in body, refuſing to worke for reaſonable wages, having nothing but labour to maintaine themſelves. *Dal.*124. *Lam.*443.

But ſuch as are of any pariſh, able to worke, and doe not wander, but refuſe to worke for the uſuall wages taxed in thoſe parts, are to be ſent to the houſe of correction. *Dal.ibid.*

7 Poore of the pariſh begging otherwiſe then is appointed them, or begging by highwayes, *ibid.* are to be ſent to the houſe of correction.

8 All pretending to be Ægyptians, not being felons. *Dal.ibid. Lam.*443.

9 Soldiers or mariners that beg, except ſoldiers or mariners having a teſtimoniall from a Juſtice of Peace neare the place of their landing, with the place of their dwelling or birth to which they are to paſſe, and a convenient time limited for their travell, and purſuing the

ſaid

ſaid licenſe 39 *Eliz.c.*4. or doe counterfeit any certificate from their Generall, Governour, Captain, Lieutenant, Marſhall, Deputy or Admirall. *Dal.*124.

10 Diſeaſed perſons travelling to the Baths and licenſed, if they beg, or not licenſed by two Juſtices, or not returning as they are limited. *Dal.*124. *Lam.*443.

11 A rogue once whipped, not performing the order appointed by his teſtimoniall. *Dal.* 124.

12 A rogue going with a generall paſport, not directed from pariſh to pariſh. *Dal. ibid.*

So a rogue carrying his owne paſport without a guide. *Dal.*124.

13 Servant departing out of ſervice without teſtimoniall, 5 *El.c.*4. or taken with counterfeited teſtimoniall. *Dal.*124.

14 Perſons infected with the Plague, or dwelling in infected houſes, going abroad contrary to order. 1 *Jac.c.*31. *Dal.ibid.*

15 Perſons able to labour and relieve themſelves and families, that run away or threaten to run away and leave their charge to the pariſh. 7 *Jac.c.*4. *Dal.*125. 21 *Jac.c.*28.

16 Any calling himſelfe a ſcholar, that hath gone about begging. *Lam.*443.

17 Any pretending loſſe by fire or otherwiſe, that wandring beggeth. *Lam.*443.

18 Any delivered out of gaole, that hath begged for fees. *Lam.*443.

Any Juſtice of Peace may appoint any perſon to be openly whipped naked, even unto bleeding, that ſhall be taken begging, wandring, or miſordering himſelfe, and is declared

red by the ſtatute 39 *El.* 4. to be a rogue, vagabond, or ſturdy begger, and ſhall cauſe him ſo whipped to be ſent from pariſh to pariſh by the officers of the ſame, the next way to the pariſh where ſuch perſon was borne, if it can bee knowne; if not, to the pariſh where ſuch rogue laſt dwelt before the puniſhment by the ſpace of a yeare, there to labour; or not being known where he was borne or dwelt, then to the pariſh through which he laſt paſſed without ſuch puniſhment, to whom the Juſtice ſhall under his hand and ſeale make a teſtimoniall witneſſing his puniſhment, day and place thereof, and whither he is limited to travell, and by what time. And in caſe ſuch place of birth and laſt dwelling be not found nor knowne, then ſuch perſon ſhall by the officer of ſuch village through which he laſt paſſed without puniſhment, be conveyed to the houſe of correction of the limit, or to the common gaole, 39 *Eliz. c.* 4. there to remaine in worke untill ſuch perſon be placed in ſervice for one years continuance, or not being able of body, till ſuch perſon be placed in ſome alms-houſe of that place or county. *Lam.* 204, 205.

« The like may be done by Conſtable aſſiſted with the advice of the Miniſter, and « one other of the Pariſh. 39 *Eliz. c.* 4.

He is an incorrigible rogue that miſreports the place of his birth, and is to be ſent to the houſe of correction in the county to which he is ſent; and if there be none there, then to the gaole untill the next Seſſions: ſo if he miſreport the place of his laſt dwelling by the ſpace of a yeare, if it appeare not where he was born.

borne. *Lam.* 207. *Ref.* 1, 2. *Dal.* 128.

Husband and wife having an house, rogue about, they must be sent to the town where that house is; and so of an inmate. *Lam.* 207. *Ref.* 3. *Dal.* 125.

Wife, and children under 7. years being vagrant, are to be placed with the husband; if the husband be dead, then where they were borne or dwelt last. *Lam. ibid. Ref.* 4, 9, 10. *Dal.* 125.

Children vagrant above 7. yeares old must be sent to the place of their birth. *Dal.* 125. *La.* 207. *Ref.* 4.

Vagrant parents, with their children under 7. yeares of age, being once placed at the place of birth of their parents or last dwelling, the parents dying after, or running away, the children once settled must still remaine there. *Dal.* 125. *Ref.* 4. *Lam.* 207.

Wife vagrant is to be sent to her husband though he be but a servant. *Lam.* 208. *Ref.* 5. *Dal.* 125.

Rogue, whose place of birth or dwelling cannot be knowne, hath wife and children under 7. years of age, they must be sent with the husband to the place where they were last suffered to passe unpunished, and the children must be relieved by the work of the parents, though the parents be sent to the house of correction. *Lam.* 208. *Ref.* 6.

Rogue sent to a towne, and refused by the Churchwardens and Overseers to whom he is to be offered, is a forfeiture of five pound in the refuser. *Lam.* 210. *Resol.* 12, 14. *Dalt.* 128.

Any

« Any hindering the execution of the law of « 39 *Eliz.* or any part thereof for the convey- « ing of rogues, forfeiteth five pounds. And « any two Justices may binde such offender to « the good behaviour, and upon confession of « the offender or oath of two may by warrant « under their hands and seales cause the « said summe of 5. pound to be levyed by di- « stresse and sale of the offenders goods. *Dal.* « 128. 39 *El.c.*4.

Rogue sent from the place where he is taken, by a generall pasport, without conveying him from parish to parish, is a let in the conveying of rogues, and a forfeiture of 5. pound. *Lam.*210. *Ref.*13. *Dal.*128.

Rogue going with such a pasport, continuing a rogue, is to be punished by whipping. *ibid.*

By parents is to be understood father or grandfather, mother or grandmother, being able persons. *Lam.*210. *Ref.*16.

By children, any child or grandchild being unable. *Lam.*210. *Ref.*15.

Diseased persons living of almes, and travellers to Bath or Buxton for remedy, are to be licensed thereto by two Justices of Peace, 39 *El.c.*4. *Lam.*332. yet may not beg, but must be provided of maintenance for their travell. *Dal.*124.

Forfeiture of offences against the statute 39 *El. c.* 4. upon conviction by confession or by two witnesses before two Justices of peace, they may cause the same to be levied by warrant under their hands and seales, by distresse and sale of the offenders goods. 39 *El.c.*4. *La.*

331.

331. See 1 *Jac. c.* 7. *Dal.* 129.

All queſtions growing upon the ſtatute of rogues, may be heard and determined by two Juſtices of Peace, whereof one of the Quorum. *Dal.* 129. 39 *Eliz. c.* 4.

Conſtable or tything-man not doing his endeavour to apprehend rogues within their limits, or wilfully ſuffering them to eſcape unpuniſhed, forfeiteth 20. ſhill. for every offence, *Dal.* 128. and 5. pound if they doe not convey them away towards their dwelling or place of birth. 39 *Eliz. cap.* 4. *Lam.* 444. 1 *Iac. c.* 7. *Dal.* 129.

Miniſter of the pariſh not keeping a regiſter of the teſtimoniall of rogues puniſhed in his paniſh, and conveyed thence, loſeth for every default 5. ſhill. 39 *El. c.* 4. *Dal.* 129.

Every one is to carry to the Conſtable ſuch beggers as they ſhall know to come to their doors for almes, or loſe 10. ſhillings. 1 *Jac. c.* 7. *Dal.* 129.

Juſtices of peace are to meet twice a yeare at the leaſt, and oftner if occaſion be, in their ſeverall diviſions, for the executing of the ſtatute againſt vagabonds, and foure or five dayes before by warrant to command the Conſtables of hundreds or towns by aſſiſtance of ſome of every town, to make a generall privy ſearch by night for finding and apprehending rogues to be brought before the Juſtices at their meeting by them, and puniſhed, or ſent to the houſe of correction. 7 *Iac. c.* 4. *Dal.* 130. 21 *Iac.* 28.

Conſtables at every meeting of the Juſtices of Peace for the execution of the ſtatute of rogues,

rogues, are to give an account upon oath in writing, and under the hand of the Minister of the parish, what rogues, &c. they have apprehended both in the same search, and also betweene every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, be fined under 40. shill. as by the most of the Just. shall be assessed. 7 *Iac. c.* 4. *Dal.* 130.

No man is to be put out of the town where he dwels, or sent to his place of birth or last habitation, but onely a vagrant rogue. *Dal.* 126 *Ref.* 9. *Lam.* 209.

So of them whose termes of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent. *Dal.* 126.

Dangerous rogues are to be banished, or condemned to the gallies by the Justices at their Quarter Sessions. 39 *El. c.* 4. *Lam.* 427. *Dal.* 287.

Rogues by judgement of most of the Justices of Peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R. and then to be sent to their dwelling; if they have none, then to their last dwelling place where they dwelt for a yeare; or if that cannot be knowne, to their places of birth. 1 *Iac. c.* 7. If he offend againe in begging or wandering, it is felony without clergy. 1 *Iac. c.* 7. *Lam.* 428. *Dal.* 287.

"Soldiers and mariners having a testimoni-
"all, under the hand of the Justice next to his
"landing place, of the time and place of his
"landing, limiting the place to which he is

"to

"to passe, and the time; if he pursue the said "license, he may aske and take such neces- "sary relefe as any will give him, 39 *El.c.*17. "*Lam.*303. *Dal.*126.

"Two Justices of Peace may send to the "house of correction, as a sturdy rogue, a per- "son able to work, threatning to run away "and leave his family upon the parish, being "proved by the oath of two before the said Ju- "stices, unlesse he can put in sufficient bond "for discharge of the parish. 7 *Iac.c.*4. *Lam.* "331.

"He which runneth away and leaveth his "charge to the parish, is an incorrigible rogue. "7 *Iac.c.*4.

Rome, *vide* Pope. *Co.*11.36.

## Rout.

Rout is where three or more persons be disor- derly assembled to commit any act with force, whether they put in execution their purpose or no, if they so do goe, ride, or move forward after their first meeting. *Lam.*176. *Dal.*221.

"A rout is onely by some opinions, where "three or more doe assemble for their owne "common quarrell: As, The inhabitants of a "towne assemble to pull downe a house, wall, "pale, ditch, or other inclosure, pretending to "have title of common, or a way there, or to "beat a man that hath done some publique "offence. *Dal.*221, 222.

Sacriledge.

SAcriledge is the felonious taking of goods out of any Church or Chappell. *Lam.*420.

## Sacraments.

Three Juſtices of Peace may take accuſation by oath of two witneſſes againſt ſuch as deprave the Sacrament of the Supper, and examine what witneſſes were by, and bind them all to give evidence at the day of tryall; and they being found guilty ſhall be impriſoned and fined. 1 *Ed.6.c.1. Dal.*134. *Quære Lam.* 416, 366.

Three Juſtices of Peace, one being of the Quorum, may award againſt one indicted upon the ſtatute of 1 *E.6. c.1.* for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias utlagat.* into any ſhire. 1 *Ed.6.c.1.*

"Juſtices of Peace in their Q. Seſſions may "enquire, heare and determine of all recu- "ſants and offences, as well for not receiving "the Sacrament according to 3 *Iac.c.4.* as not "repairing to Church. And in their Seſſions "(wherein there ſhall be indictment taken "for not repairing to Church, or not recei- "ving the Sacrament) to make Proclamation "to render their bodies to the Sheriffe before "the next Seſſions, and in default, a convicti- "on. 3 *Iac.c.4. Lam.*616.

**Salmons**, *vide* Fiſh.

## Saltpetermen.

Saltpetermen cannot dig in the manſion houſe

house of any subject without his assent, in regard of the danger that may happen thereby in the night time to the owner, his family and goods by theeves and other malefactors. *Co.* 11. 81. *Dal.* 209. *Vide* House.

## Schoolmaster.

To keep or maintaine a Schoolmaster which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocesse, the maintainer forfeits ten pounds for each month, and the Schoolmaster to be imprisoned for a yeare without bayle, and disabled. 23 *El. ca.* 1. *Lam.* 419.

Any keeping a Schoole, or being a Schoolmaster out of the University, except in publike Grammar-schoole, and except in such Noblemen and Gentlemens houses as are not recusants, and licensed by the Archbishop or Guardian of the Diocesse, both keeper and Schoolmaster forfeits 40. shill. a day. 1 *Iac. c.* 4.

## Seditious sectaries.

One Justice of Peace may within three moneths after the conviction of any seditious sectary or Popish Recusant described in the statute of 35 *El. ca.* 1. require the submission of him to conformity, and in default of such submission, may require him to abjure the Realme; and if hee refuse, or after returne without license, it is felony. 35 *El. c.* 1. & 2. *Lamb.* 204.

Sermon,

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Servingmen, *vide* Testimoniall.

## Sessions of the Peace.

The Sessions of the Peace is an assembly of any two or more Justices of Peace, one being of the Quorum, at a certaine day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to heare and determine according to their power of causes within the Commission and statute referred to their charge. *Lam.*378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing. *Lam.*380,381.

Summons of the Sessions is usually by precept written to the Sheriffe, and by him to be returned at the Sessions. *Lam.*381.

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the Quorum, but not the *Custos Rotulorum* alone; and summons cannot be discharged by *Supersedeas* of all the other Justices, but by *Supersedeas* out of the Chancery. *Lam.*382, 383.

Sessions held by one Just. of P. is not good although it were summoned by two, and styled by their names; but by two sufficient Justices it is good, though it be styled by the name of three. *Lam.*383.

Quarter

Quarter Seſſions are to be held four times in the yeare, (*viz.*) the firſt week after S. Michael, the Epiphany, the clauſe of Eaſter, after the tranſlation of S. Thomas the Martyr, which is 7. *July*. 2 *H.*5.*c.*4. *Lam.*597.

« The Eaſter Seſſ. by 33 *H.*8.*c.*10. are to « be holden the Tueſday next after Low-« Sunday. *Lam.*605.

« Juſtices of Peace ſhall hold their Seſſi-« ons foure times in the yeare, *viz.* Once « within the Octaves of the Epiphany: the « ſecond, in the ſecond week of Lent: the « third, between the feaſts of Pentecoſt and « S. John Baptiſt: the fourth, within the « Octaves of S. Michael. 36 *Ed.*3.*c.*12. *Cro.* « 123.*b.*nu.16.

« Where *Crompton* noteth, that by 12 *R.*2. « *c.* 10. it is ordained that the Qu. Seſſions « ſhould be held every quarter of a yeare at « the leaſt, and three dayes if need be; by « which it appeareth that the uſuall day « is not of neceſſity; ſo it be kept within a « quarter of a yeare. *Cro. ibid.*

« By the ſtat. 2 *H.*5 *c.*4 Juſtices of Peace « ſhall keep their Seſſions foure times in the « yeare, *viz.* in the firſt week after S. Mi-« chael, in the firſt week after the Epiphany, « in the firſt week *poſt clauſ. Paſchæ*, & in the « firſt week after the Tranſlation of S. Tho-« mas the Martyr, which is the 7. of July, and « oftner if need be. *Cro.* 123.*b.* nu.17.

« *Cro.* 123.*b.*nu.18 ſaith, that upon the ſtat. « of 17 *R.*2.*c.*9. (which permitteth to keepe « Seſſ. ſo oft as is expedient) that in Kent they « keep their Seſſ. at other times the the times

" appointed by 2 *H.*5.*c.*4. & that it is good.

The place where Sessions are to be holden as arbitrable, and therefore though by summons they be to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance. *Lam.*383,384.

Two Sessions at one time for one county lawfully summoned at two places, both are good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good. *Lam.*384.

At a generall Sessions all matters enquirable by Justices of Peace, either by their Commission, or by statute, ought to be given in charge, otherwise at a speciall Sessions, *Lam.*623. and may be held three dayes. 606. 12 *R.*2.*c.*10.

Two sorts of men owe their ordinary attendance at the Qu. Sessions, (*viz.*) officers and ministers of the Court, and Jurors of the County. *Lam.*386.

Officers are the *Custos Rotulorum*, where he ought to attend by himself or his deputy. *Lam.*387.

The Clerk of the Peace. *Lam.*393.

The Sheriffe. *Lam.*395.

The Coroners. *Lam.*394.

" Ministers, as Bailiffes of Franchises, Con-
" stables of Hundreds, the Ordinary. *Lamb.*
" 395. Jurors for enquiry and tryall. *La.*396.

The Just. of P. if need require, may keep a speciall Sessions by vertue of their commission, or by the statute 2 *H.*5.*c.*4. *Lam.*623.

Sum-

Summons of a ſpeciall Seſſions is for the moſt part for ſome ſpeciall enquiry, and not to the generall ſervice of the commiſſion. *Lam.* 623.

All matters within the commiſſion or ſtatute may at a ſpeciall Seſſions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them. *Lam.* 623, 624.

If two Juſtices of the Peace, one being of the Quorum, make a precept to the Sheriffe for the holding a Seſſions at ſuch a place and day, and to returne a Jury before them, other Juſtices cannot by their *Superſedeas* to the Sheriffe inhibit him, *Cro.* 122. *b.* but the King by his writ of *Superſedeas* may diſcharge it. *ibid.*

A man is bound to appeare before a Juſtice of Peace within forty dayes after, in the mean time a generall Seſſions is kept, he ought to appear before the Juſtices at the Seſſions. *Cro.* 123. *a.* nu. 8.

A Juſtice commands one on paine of 10. pound by his precept to appeare at the next Seſſions, and he doth not, no *Scire facias* ſhall goe againſt him more then upon a *Sub pœna*, but it ſeemeth he may be attached upon a contempt. *Cro.* 123. *a.* nu. 9.

« All that come to the Seſſions for pub-
« lique ſervice, or upon compulſion, upon
« complaint and examination of the matter
« upon oath ſhall be freed from any arreſt
» upon Original proceſſe. *La.* 402. *Cro.* 190. *b.*

« Juſtice of Peace may record a force, if
« he be diſturbed in comming to the Seſſions,

« ſo that he dare not goe to the Seſſions, « and they ſhall be convicted by that record. « *Cro.*190.*b.*

## Sewers.

Commiſſion of ſewers being expired, ſixe Juſtices of Peace, two being of the Quorum, may for one yeare after execute the lawes of Commiſſioners of ſewers, unleſſe a new bee publiſhed. 13.*El.c.*9.

## Sheep.

To tranſport ſheep beyond the ſeas without licenſe, or to procure the ſame, is felony for the ſecond offence. 23.*H.*8.*c.*16. 8.*Eliz.c.*3. *Lam.*227,425.

Any bringing, ſending, or receiving into any bottome any ſheep alive out of the Kings dominions, or procuring the ſame, loſeth his goods, is to bee impriſoned for a yeare, and then in open market to loſe his left hand. 8.*Eliz.c.*3. *Lam.*456,457.

Any keeping at one time above 2000 ſheep of all ſorts againſt the purport of the ſtatute, loſeth 3 ſhill. 4 pence for every ſheep above 2000. 28.*H.*8.*c.*13.

## Sheriffe.

The *Cuſtos Rotulorum*, or eldeſt of the Quorum in his abſence, is to appoint at Michaelmaſſe Seſſions, two Iuſtices of Peace, whereof one of the Quorum, to have the over-

overſight and controlment of the Sheriffe, Undersherife, their officers and deputies, and of their bookes and amerciaments in their county Courts: and either of theſe two Iuſtices, or one Iuſtice of the Peace, may examine the Sheriffe or Undersheriffe and plaintiffe concerning the taking and entring plaints in their Courts and books againſt the ſtatute. 11. *H.*7.*c.*15. *Dal.*136. *La.*201, 295, 600.

The particulars are. *Dal.*137. *Lam.*431.

1 If any plaints bee entred in their bookes in any mans name, the plaintiffe or ſufficient Atturney not being in Court.

2 If the plaintiffe find not pledges to purſue his plaint, (*viz.*) ſuch as are knowne in that countrey.

3 If they enter more plaints then one for one treſpaſſe or contract.

4 If they enter more plaints then the plaintiffe ſuppoſeth he hath cauſe of action for againſt the defendant.

If upon examination the Iuſtices finde any default, it ſhall ſtand for conviction without further enquiry or examination, and they forfeit 40 ſhill. to the King, and to the informer for every default, and the Iuſtices muſt certifie the examination to the exchequer within a quarter of a year, on pain of 40 ſhill. *Dal.*137.

The like for Bailiffes of hundreds in not warning the defendants to appeare. *Dal. ibid.*

Sheriffe ſhall make no eſtreats to levie their ſheriffes amerciaments untill the two

Justices have had a view and oversight of the books, and the said estreats shall be indented betwixt the said Justices and Sheriffe, or Undersheriffe under their seales. *Dal.ibid.*

The said two Justices or one of them may examine the defaults of collectors of Sheriffs amerciaments, whose finding of default is a sufficient conviction and forfeiture of forty shillings, the examination to be certified into the Exchequer. *Dal.ibid.*

The said Justices, upon information of the party grieved, may make like processe as in action of trespasse against the Sheriffe, &c. to appeare then to answer the said information or suggestion. *Dal.*138.

Sheriffe ought to be at the Sessions to returne his precept, and keep the prisoners. *Lamb.*395.

*In these cases following the Sheriffe, &c. doth forfeit* 40. *pounds, and treble damages to the party grieved.* 23 Hen.6.c.10. Lam. 430,431.

1 Sheriffe that letteth his Bailywicks or any of his hundreds.

2 Or returneth in any pannells any Bailiffes, officers, servants, or servants servants.

3 Or refuseth to baile those that are bailable, offering sufficient surety.

4 Or taketh any obligation by colour of his office, but onely to himselfe, and upon the name of his office, and upon condition onely

onely to appeare according to the writ or warrant.

5 Or having taken for an arreſt above 20. pence.

6 Or above 4. pence for any obligation, warrant, or precept.

7 "Or he or any other miniſter having "taken any thing for making any returne "or pannell.

8 Or above foure pence for the copy of a pannell.

9 Bailiffe for taking above foure pence for making an arreſt.

10 Gaoler taking above foure pence of any committed to his ward upon arreſt or attachment.

11 Sheriffe or his miniſters that ſhall levie any of the Kings debts, without ſhewing the party the eſtreats under the Exchequer ſeale, ſhall be fined and pay treble damages to the party. 7 *H.* 4. *c.* 3. 42 *Ed.* 3. *c.* 9. *Lamb.* 432.

12 Sheriffe or other his miniſter arreſting, impriſoning, ranſoming of, or levying any amerciaments by reaſon of any Indictments or preſentments made in the Sheriffes turne, without proceſſe firſt obtained from the Juſtices of P. or that hath not brought in ſuch indictments and preſentments to the Juſtices of the Peace at the next Seſſions, loſeth 10. pound. *Lam.* 431. 1 *Ed.* 4. *c.* 2.

Sheriffe or any other who may make return of any writ, that returneth any Jurour, without true addition of the place of his abode, or within a yeare next before, or without

some addition by which the Juror might be well knowne, loseth 5. marks to the King, and 5. marks to the party. 27 El. c. 7. Lam. 432.

Sheriffe or gaoler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such, is fineable. 4 E. 3. cap. 10. Lam. 434.

Sheriffe, bailiffe, or other officer, or person, refusing to pay over to the Churchwardens, &c. the moity of the forfeitures by the statute of 4 Jac. against uttering of beer or ale to alehouse-keepers unlicensed, forfeiteth double value. 4 Jac. c. 4. Lam. 434.

Justice of Peace being chosen Sheriffe, his authority of Justice is suspended during his Sheriffewick; but after another is chosen and sworne, his authority as a Justice of Peace is as it was before without any new oath, except he be left out of the commission. Dal. 11. & 12. Cro. 121. a. nu. 13, 14.

## Shoes.

Making shoes, pantofles, &c. contrary to the rules prescribed in the statute, loseth 3. shill. 4. pence for every paire of shoes, &c. and the value of them. 1 Jac. c. 22. Lam. 465.

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3. shill. 4. pence and the value of them. 1 Jac. c. 22. Lam. 466. vide Leather.

## Shooting.

« Any under the degree of a Lord of the « Par-

« Parliament ſhooting within any city or « towne at any fowle or other marke upon « any Church or dove-coat, or any ſhooting « in any place any hayle-ſhot or moe pellets « then one at a time, every time offending « forfeiteth ten pound, and impriſonment « for three moneths. 2 *Ed.6.c.*14.

*Vide* Archery, Croſſe-bows, Partridges.

Silke, *vide* Apparell.

Sope, *vide* Veſſels.

## Souldiers.

Souldier ſerving the King by ſea or land, doth willingly give, purloyn, or put away any horſe or harneſſe wherewith he was ſet forth, (or being taken from other ſouldiers was appointed to him,) upon complaint thereof to a Juſtice of Peace, he ſhall be committed without bayle, till he have made ſatisfaction, unleſſe he have been formerly puniſhed by the Generall or other, or ſhew forth in writing under ſeale the lawfull loſſe thereof. 2. & 3 *Ed.6.c.*1. *Lam.*194.

Souldiers paſſing out of the Realme to ſerve any forraine Prince, not having before their paſſage taken the oath of allegeance before the officer appointed thereunto, it is felony. 3 *Jac.c.*4. *Dal.*288.

Souldier being a Gentleman, or of a higher degree, or Captaine, or other officer in campe, paſſing to ſerve any forraine Prince, &c. before they be bound to the King with

two ſureties before the officer appointed, not to be reconciled to the Pope, &c. or to conſent to any conſpiracy againſt the King, but to diſcloſe all conſpiracies upon knowledge thereof, &c. it is felony. *ibid.*

Souldier entred upon record, and having taken preſſe-money, and that departeth without licenſe, it is felony, 2 *H.*7 *c.*1. 3*H.*8 *c.*5. *Dal.*288. or if they depart without licenſe after they have ſerved in the Kings warres, 2 *Ed.*6 *c.*2. *Dal. ibid.* So of mariners and gunners that have taken preſſe-money to ſerve the King on the ſea, and come not unto, or depart from the Captain without licenſe, it is felony. 5 *El. c.*5. *Dal.*288.

## *In theſe caſes following, by the ſtatute of* 39 El. c. 17. *ſouldiers and mariners doe become felons.* Dal. 288, 288.

Such which ſet not themſelves to ſome lawfull courſe of life, but wander up and downe idlely, not having a lawfull teſtimoniall (if they come from beyond ſea) from ſome Juſtice of Peace near the place of their landing, expreſſing the place and time of their landing, the place to which they are to paſſe, and a time limited for their paſſage; or having ſuch a teſtimoniall, if they ſhall exceed the time limited.

To forge or counterfeit ſuch teſtimoniall, or to have a forged teſtimoniall, knowing that it is forged.

Or being retained in ſervice after his arraignment

raignment, &c. if he depart within the yeare without licenſe of his maſter.

Poore ſouldier, or mariner, or ſea-faring man ſuffering ſhipwrack, may have a licenſe from a Juſtice of peace next to his landing, to paſſe to the place of his repaire, and may aske and receive neceſſary reliefe in his direct paſſage, within the time limited to him. 39 *El.c.*4. 39 *El.c.*17. *Dal.*126. *Lamb.*303. 21 *Jac.c.*28.

Every pariſh is to be taxed to the reliefe of diſabled ſouldiers, by the greater part of the Juſtices at their Quarter Seſſions next after Eaſter, ſo as no pariſh be above ten pence, nor under two pence weekly to be paid, ſo as the totall ſumme in any county where there ſhall be above fifty pariſhes, doe not exceed ſix pence every pariſh. 43 *Eliz. cap.*3.

The ſaid taxation to be aſſeſſed within themſelves, and in default thereof by the Churchwardens and pety Conſtables or the greater part of them, in default thereof by the Juſtices or Juſtice of Peace dwelling in the ſame pariſh, or if none be there, in the pariſh next adjoyning. 43 *El.c.*3.

In default of payment of the ſame aſſeſſe, the Churchwardens and pety Conſtables may levie it by diſtreſſe and ſale, &c. and in their default the aforeſaid Juſtices or Juſtice of Peace. 43 *El.c.*3.

The Churchwardens and pety Conſtables are to pay over their collections to the high Conſtable ten dayes before every Quarter Seſſions, and the high Conſtables at every Quarter

Quarter Sessions are to pay it over to the Treasurer. *ibid.*

If any of them make default, then the Churchwardens or petty Constables forfeit 20. shillings, and every high Constable 40. shillings to be levied by the Treasurer by distresse and sale for augmentation of the stock. 43 *El. c.* 3.

Treasurer for maimed Souldiers must be 10. pound in lands or 15. pound in goods in the subsidie, and continue but for a yeare, and within ten dayes after Easter Sessions following to give account to his successor, in default thereof or for other misdemeanour in his office, to be fined five pound or above by the more part of the Justices of Peace. 43 *El. c.* 3.

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawfull certificate thereof by the generall muster-master or receiver of the muster-rolls, Treasurer, or Controller of the navy under his hand, is to come to the Treasurer of the county where he was prest, or if he were not pressed, then to the Treasurer of the county where he was borne or last dwelt three yeare, if he be able to travell so far; or otherwise to the Treasurer of the County where hee landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Justices may according to their discretions grant him a pension during his life, if the said pension be not duly revoked or altered. 43 *El. c.* 3.

Treasurers are to make payment quarterly of

of ſuch penſions as ſhall be granted by the moſt of the Juſtices at the Qu. Seſſions under their hands, and by them to be fined if they refuſe to pay them. 43 *El.c.*3.

Penſions of ſouldiers and mariners, not having born offices, are not to be above 10.l. under the degree of a Lieutenant 15.l. a Lieutenant 20.l. 43 *El.c.*3. Penſions are revocable or alterable at the diſcretion of the Juſtices in the Qu. Seſſions. 43 *El.c.*3.

Treaſurer where any maimed ſouldier or mariner ſhal arrive upon certificate, (though not allowed) may give a teſtimoniall of his owne allowance, and convenient reliefe to carry him to the next County, leading him to the place where the generall muſter-maſter ſhall be; and ſo may the treaſurer of each County, leading him thither and from thence to the County where he is to have his penſion. 43 *El.c.*3.

Treaſurer is to enter into a booke money received and diſburſed, with the parties names and certificate to whom it was paid. 43 *El.c.*3.

Treaſurer not allowing a certificate in the act of 43 *El.c.*3. expreſſed, muſt endorſe the cauſe thereof on the certificate. 43 *El.c.*3.

Souldier or mariner counterfeiteth a certificate, or having a penſion beggeth, he ſhall loſe his penſion, and be adjudged a rogue. 43 *El.c.*3.

Soldier or mariner that cannot be relieved in the county where he was preſſed, by reaſon that the whole taxation is imployed, ſhall be relieved where he was borne or dwelt the laſt

laſt 3. years at his election. 43 *El.c.*3.

Overplus of the ſtock for maimed ſouldiers is to be imployed by the greater part of Juſtices at the Qu. Seſſions, to ſuch charitable uſes as are ſet downe in the ſtatute for poore, except it be by them reſerved for future penſions. 43 *El.c.*3.

## Star-chamber.

The experience of the Star-chamber is the beſt guide and direction for a Juſtice of Peace. *Lamb.*175.

## Stolne goods.

After attainder upon evidence by the owner, the ſtolne goods are to be reſtored to the owner by writ of reſtitution awarded by the Juſtices before whom the attainder was. 21 *H.8.c.*11. *Lam.*586. *Dal.*306. *Cro.*191.*a*. *Vide* Reſtitution of ſtolne goods.

## Stewards of Courts.

Stewards of the Sheriffes turne, Leet, or Pypowders, cannot grant ſurety of the Peace unleſſe it be by preſcription, but every of them may commit him to ward that ſhall make an affray in their preſence whileſt they be in execution of their office, which the ſteward in a court Baron cannot doe. *Lamb.*14. *Dal.*2. 10 *H.6.c.*7. *Br. Leet* 36.

Stock

The pariſhioners, and in their default the Churchwardens and Conſtables are to aſſeſſe the taxe impoſed upon the pariſh by the Juſtices at Eaſter Seſſions, towards the reliefe of the priſoners in the Kings Bench, Marſhalſey, Hoſpitals, and other loſſes by fire, &c. In default of them, any Juſtice of Peace dwelling in that pariſh, or (if none dwell there) the next Juſtice may aſſeſſe the ſame; and the ſame Juſtice of Peace or any other Juſtice of peace in that limit, in default of the Churchwardens and Conſtables, may levie the ſame by diſtreſſe and ſale of the offenders goods, rendring to the party the overplus, and in default of diſtreſſe may commit ſuch perſons without bayle till they pay the ſame. 43 *El.c.*2. *Dal.*139.

In all taxations obſerve theſe rules. *Dal. ibid.*

1 The moſt reaſonable taxation of land is by the yearly value, not the quantity.

2 He that occupieth lands in his owne hands in ſeverall pariſhes, ſhall be charged in every pariſh proportionably for his land there.

3 The farmer ſhall be rated for the land, and not the leſſor.

4 A man is not to be rated for his farme-rents, for that the occupier of the lands is chargeable for the ſame.

5 By goods in moſt caſes a man may be rated, as well as by lands, but not both by goods and lands.

6 A man ſhall be charged for goods onely in that towne where the goods be at the time

time of assessment: the Constable and major part of the parishioners, upon warning given in the Church, may make such taxations by law. *Co.5,67. Br. Quin.4.C.6. Dal.140.*

The like may be done by the Churchwardens and the greater part of the parishioners for Church-charges. *Dal.ibid.*

If the greater part will not meet, the officers and such as will meet may taxe. *Dal.ibid.*

Where a man is charged by goods, they must be *bona notabilia. Dal.140. Vide* Taxations.

## Subsidie.

Upon proofe before two Justices of Peace that a subsidy man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices. *Lam.336, Dal.141.*

**Suggestion,** *vide* **Information.**

**Summons of the Sessions,** *vide* **Sessions.**

## Sunday.

¶ All persons shall diligently and faithfully resort to their parish Church or Chappel accustomed, or upon reasonable let to some usuall place where Common prayer shall be used upon every Sunday and other day ordained and used to be kept holy day, and then and there to abide orderly and soberly during

ning the time of Common-prayer, preaching, or other ſervice of God, or loſe 12. pence for every offence to be levied by the Churchwardens there, to the uſe of the poor, by way of diſtreſſe, 1 *El. c.* 2. *Dal.* 195. though hee be Popiſh recuſant convict or not convict. *Ibid.*

If any ſubject doe not reſort and repaire every Sunday to ſome Church or Chappel, or ſome uſuall place appointed for Common prayer, and there heare divine Service, according to the ſtatute, 1 *El. c.* 2. it ſhall be lawfull for a Juſtice of Peace of that limit, upon proofe by confeſſion of the party, or oath of witneſſe, to call the party before him; and if he or they make not a ſufficient excuſe, to the ſatisfaction of the ſaid Juſtice, then to give warrant to the Churchwardens of the ſaid pariſh under his hand and ſeale, to levie 12. pence by diſtreſſe to the uſe of the poore for every default; and for want of diſtreſſe, to commit the offender to priſon; every offender to be called in queſtion within one moneth after the offence. 3 *Jac. cap.* 4. *Law.* 428.

None puniſhed according to the branch of the ſtatute of 3 *Jac. cap.* 4. ſhall be puniſhed by 1 *El. c.* 2. for the ſame offence. 3 *Jac. c.* 4.

There ſhall be no meeting, aſſemblies or concourſe of people for any ſports or paſtime out of their own pariſhes on the Lords day; nor Bear-baiting, Bul-baiting, Interludes, common-playes, or other unlawfull exerciſes within their owne pariſhes, upon forfeiture of 3. ſhillings 4. pence to the uſe of

the

the poor, upon view of one Iuſtice of peace, confeſſion of the party offending, or oath of one witneſſe, to be levied by warrant of the ſaid Iuſtice under his hand and ſeale to the Conſtable and Churchwardens; in default of diſtreſſe, the offender to ſit in the ſtocks three houres. The offender to be queſtioned within one moneth. 1 *Car.c.*1. *Dal.*63.

Carriers, waggoners, waynmen, drovers, ſhall not travell with horſe, wagons, carts, or cattle upon Sunday, upon paine of twenty ſhillings for every offence. Neither ſhall any Butcher kill or ſell any victuall upon Sunday, on paine of 6. ſhillings 8. pence, upon view of one Iuſtice of Peace, confeſſion of the party, or oath of two witneſſes, the penalty to be levyed by the Conſtable or Churchwardens to the uſe of the poore by warrant of any Iuſtice of Peace by diſtreſſe, or by any that will ſue for the ſame at the Q. Seſſions in the ſame county within 6. months, his reward not to be above the third part. 1 *Car.c.*1. *Dal.*134.

Shewing of boots on the Sunday, with intent to ſell them, loſeth 3. ſhill. 4. pence, and the value of the boots. 1 *Jac.c.*22. *Lam.*466.

## Superſedeas.

*Superſedeas* is ſufficient, though it neither name the ſureties, nor containe the ſumme wherein they are bound; but it is better if it doe both. *Lam.*96. *Dal.*172.

*Superſedeas* delivered to the officer, if he urge new ſureties, the party may refuſe; and if

if he be committed, he may have his action. *Lam.99. Dal.172.*

*Superſedeas* out of the Chancery will diſcharge ſurety of the Peace in the Kings Bench, and either of them a precept for the peace awarded by a Iuſtice of peace, and an attachment lyeth againſt him if he ſurceaſe not, and he may be impriſoned and fined for it. *Lam.99. Dal.172,173.*

*Superſedeas* received by a Iuſtice of Peace out of an higher Court, he ſhould forbeare to make any warrant, or if one be made, to ſend out his *Supeſedeas* to the Sheriffe or other officer to deliſt to put it in execution. *Lam.99. Dal.172.*

*Superſedeas* out of the Chancery is to be certified at the next Seſſions, together with the recogniſance for the Peace; if the *Superſedeas* doe teſtifie that he hath found ſurety in the Chancery onely unto a certaine day, which day is after thoſe Seſſions if the *Superſedeas* come to his hands after his recogniſance taken. *Dal.173. Lam.113.* for peradventure the recogniſance was broken before the *Superſedeas* purchaſed.

*Superſedeas* for the good abearing, *quare* if it may be granted by a Iuſtice of Peace, *Lam.113. Dalt.* affirmeth it, 197.

A *Superſedeas* made by a Iuſtice of Peace, and returned under his ſeale, is a ſufficient record to prove a recogniſance taken for the Peace, and warrant to call the party bound, and if he make default, to record the ſame. *Lam.97.*

If a Iuſtice of P. will by a *Superſedeas* diſcharge

charge a Precept for the Peace awarded by another by vertue of his office and not by *Supplicavit*, the recognisance would be taken according to the forme of the Precept. *Lam.* 96. *Dal.* 172.

*Certiorari* to remove a record is in it selfe a *supersedeas* to the Iustices, yet the party may have a *Supersedeas* to the Sheriffe that he arrest him not upon the Iustices record. *La.* 515

Whether the Iustices *ex officio* after a *Certiorari* ought to award their *Supersedeas*, to stay proceeding upon the record, *quære Lam. ibid.*

An exigent awarded against one indicted of a trespasse before the Iustices of Peace, may be stayed by *Supersedeas* out of the Chancery, upon surety found there to appeare at the day in the Writ, though he be taken upon it. *Lam.* 526, 527.

So by *Supersedeas* granted by two Iustices of Peace, one being of the Quorum, testifying that he hath found sureties, *de fine affidando. Lam. ibid.*

Yet *Dal.* and *Cro.* say, by one Iustice of Peace. *Dal.* 319. *Cro.* 234. *a.*

If a *Supersedeas* be directed to the Iustices of Peace and Sheriffe, the Iustice to whose hands it shall be delivered, may keep it, and deliver the libell to the party. *Dal.* 173.

*Supersedeas* granted for the Peace or good behaviour out of the Chancery or K. Bench, is void, unlesse it be upon motion in open Court, and upon sureties of five pounds in land, or ten pounds in goods in subsidie, and unlesse it appear to the Court that such proces of P. or good behaviour is prosecu-

ted

ated againſt the deſirer of ſuch *Superſedeas bona fide* by ſome grieved in that court out of which the *Superſedeas* is deſired. 21 *Eliz.* c. 8. *Dal.* 174.

Whether the party bound, ſending the *Superſedeas* to the Seſſions, be diſcharged of his appearance there, *quære Dal.* 173. *Lam.* 113. the preſidents are, that the party appeared and prayed allowance, &c.

## Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, muſt execute it. *Dal.* 186.

The Juſtice that receiveth the Writ, may make the Warrant to the Conſtable or other partie indifferent; and if he refuſe to find ſureties, to carry him to priſon. *Dal.* 186.

The party attached can be bound onely before him that ſent out the Warrant. *Dal.* 186.

The Juſtice is to execute the *Supplicavit* as it directeth. *Dal.* 187.

If the ſummes be left to diſcretion, it is ſafe to take good ſummes. *Dal. ibid.*

After ſureties taken, the Juſtice may make him a *Superſedeas*. *Dal.* 187.

The Juſtice needs not returne the *Supplicavit*, nor make certificate unmill a *Certiorari* doe come to him. *Lam.* 109. *Dal.* 190.

## Supremacie.

To refuſe the oath of Supremacy, the firſt offence is *Præmunire*, the ſecond Treaſon. 5 *Eliz. cap.* 1.

Surety

Surety of the Peace is the acknowledgement of a recognisance to the King (taken by a competent Judge of record) for the keeping of the Peace. *Dal.*161. *Lam.*75.

Every Justice of Peace may take and command the Peace either as a Judge or a Minister. *Dal.ibid.*

Justice of peace may command surety of the Peace, either of his owne discretion, or at the prayer of another.

## *In what cases a Iustice of Peace may command surety of the Peace by his owne discretion.* Dal.162.

1 One that maketh an affray upon the Justice himselfe, or an assault.

2 Such as in his presence make an affray upon another, or offer to strike another.

3 Such as in his hearing shall threaten to kil, beat, or hurt another, or to burn his house.

4 Such as in his presence contend onely in hot words.

5 Such as in his presence goe or ride armed offensively, or with unusuall number of servants or attendants. And servants and labourers that beare any weapons contrary to the statute of 12 *Ric.*2.*cap.*6.

6 Any person by him suspected to be inclined to break the Peace.

7 If the Constable bring one before him that shall threaten to kill, maime, or beate another.

8 If the Constable bring one who in his presence attempted to breake the Peace by drawne

drawne weapon, ſtriking or aſſaulting another.

9 Whom the Conſtable findeth fighting or quarrelling in a houſe, he may break open the doore, and bring them before a Juſtice of Peace to be bound.

10 He may make his warrant for ſuch as have made an affray, and binde them to the Peace.

11 If one have received a wound, he may bind the one and the other till the wound be cured, and the malice over.

12 Such as goe or ride armed offenſively to faires or markets, or weare or carry dags or piſtols charged.

13 Common Baretours. *Dal.* 163.

14 Rioters.

15 Him that ſtandeth bound to keep the Peace, and hath forfeited his recogniſance by breach of the Peace; but not till he be convicted, and the forfeiture levied. *Dal.* 163. Yet *Cro.* 141. ſaith that he may be bound anew if he be onely convict for breaking the Peace.

16 Him that ſtandeth bound if his ſureties be inſufficient.

Juſtice of Peace is to ſend to priſon him that refuſeth to give ſureties, untill he finde ſureties. *Dal.* 163. *Cro.* 138. *b.* nu. 8.

Juſtice of Peace may cauſe one to be arreſted to find ſurety of the Peace againſt another, and grant a warrant for it, for he might have bound him of his own authority. *Dal.* 163.

Juſtice of Peace may perſwade a man to

require

« require surety of the Peace against ano-
« ther, and grant a Warrant for it: for he
« might have bound him of his owne autho-
« rity. *Lam.*78. *Dal.*162,336.

At the request of another he may command surety of the Peace, but must first take an oath of the party that demandeth the Peace, that he standeth in feare of his life, or of some bodily hurt, or to have his house burnt. *Lam.*83. *Dal.*163.

« Sureties in a recognisance ought to be
« two, and registred in Subsidy, for though
« some may be sufficient which were not as-
« sessed, yet it standeth not well together,
« that he should be bound to the King in 10.
« pound or 20. pound that in subsidy was not
« found worth any thing. *Dal.*175.

« Justices of Peace in Sessions may exa-
« mine sureties upon oath of their sufficien-
« cie. *Dal.*175.

## *Causes to require surety of the Peace.*

1 He that is threatned to be hurt in body, as to be beaten, wounded, maimed, or killed. *Dal.*164.

2 He that feareth another will beat, wound, maim, or kill him. *Dal.ibid.*

3 He that feareth another will burne his house. *Dal.ibid.*

4 He that feareth that *A.* will procure another to hurt him in his body, or burne his house. *Dal.*164.

5 If a man lie in wait to beat, kill, or hurt another. *Dal.ibid.*

*Quære*, if he threaten to burn his goods.

In

## *In what cases a man shall not have the Peace granted.*

1 To threaten one to imprison him. *Dal.* 164. *Lam.* 82. *Cro.* 135. *a. Quære tamen. Br. Peace* 22.

2 Where one is in feare that a man will hurt his servant, cattle, or other goods. *Dal.* 164. *Cro.* 138. *a. Lam.* 83. but may have a writ out of the Chancery. *Dal.* seemeth to be of the other opinion. 164.

3 Because he is at variance with his neighbour. *Dal.* 164. *Lam.* 83.

4 Where there is no feare of present or future danger. *Dal.* 164. *Lam.* 84.

5 For a battery past: yet a Justice if he see cause, may binde over the affrayers. *Dal.* 165. *Pax Regis* 14.

Justice of Peace may deny to grant surety of the Peace, if it be upon meere vexation; yet if the party will take his oath, it is not safe to deny it. *Dal.* 165. yet afterwards perceiving it to be of malice and for vexation, may binde the party so requiring it to his good behaviour.

## *Against whom surety of the Peace may be granted.*

Against a Knight, or any person under the degree of a Baron. *Dal.* 166.

Against Sheriffe, Coroner, Eschaetor, or other officer of Justice. But it is not good to binde them *versus cunctum populum.*

*pulam. Dal.* 166. *Lamb.* 80, 81.

Against any Ecclesiasticall person not doing divine Service in the Church or Churchyard, or other place dedicated to God. *Dal.* 166. 50 *Ed.*3.c.5. 1 *R.*2.c.15.

One Justice of Peace may grant the surety of the Peace against his fellow Justice, though sitting in Sessions. *Cro.* 134.*b.* *Dal.* 167. *Lam.*80.

One Justice of Peace may demand the Peace against another man. *Lamb.*81. *Dal.* 167.

The wife may demand the Peace against her husband, if he threaten to kill her, or outragiously beat her, or have notorious cause to feare it; and the husband may crave the Peace against his wife. *Dal.*167. *Lam.*78. *Cro.*133.*b.*

The Peace may be granted to a feme-covert, or an infant under the age of 14. years, if he have discretion to crave the P. but they must be bound by sureties, and an infant under that age may demand it. *Dal.*167. *Lu.*79.

A Lunatick may crave the Peace, and have it granted him. *Dal.*167. *Lam.*79.

It may be granted against one attainted either of treason or of felony, or convict of heresie. *Dal.* 168. and they may demand it *Lam.*79.

It may be had against an excommunicate person. *Dal.*168. and an abjured person *ibid.*

It may be had against one attainted in *Præmunire*, and against an alien either made denison, or living in England. *Dal. ibid.*

It may be had against one dumb and blind,

so

ſo againſt an impotent perſon. *Dalt.* 168. *Lam.* 79.

## *Againſt whom the Peace cannot be granted.*

1 It cannot be granted againſt any Nobleman, or Noblewoman. *Dal.* 165.

2 Againſt one *non ſane memorie*, unleſſe he have *lucida intervalla*. *Dal.* 167. *Lam.* 79.

3 Againſt one borne dumb and deafe; but if he become dumb and deafe, or made blind and deafe accidentally, he may have underſtanding, and the Peace may be granted to him or againſt him. *Dal.* 168.

## *How the ſurety of the Peace is to be commanded and executed.*

A Juſtice of Peace may { word, writing. } command the Peace by

*By word.*

The party being preſent in the preſence of the Juſtice of Peace, threatneth another, or maketh an aſſault or affray upon another, or doth any other act tending to the breach of the Peace. *Dal.* 169. *Cro.* 138 *b.* nu. 8. *Lamb.* 84, 85.

One demandeth the ſurety of the Peace, being preſent, and taketh his oath he is affrayed, &c. the Juſtice may command the other to finde ſurety. *Dal.* 169. *Cro.* 138. *b.* *Lam. ibid.*

The Juſtice in ſuch caſes may command the Conſtable or other knowne officer, or his

owne ſervant being preſent, to arreſt ſuch party to finde ſurety of the Peace, and may commit to the Gaole ſuch party refuſing to find ſurety. *Dal.Cro.Lam.ibid.*

*By writing.*

The Juſtice by precept or warrant in writing under his ſeale directed to ſome known officer, or other indifferent perſon, containing the cauſe and at whoſe ſuit, to the end the parties may provide the ſureties, and take them with them. *Lam.*87. *Dal.*170.

The Juſtice may make his warrant to bring the party before him, but the uſuall manner is to bring the party before the ſame Juſtice, or ſome of the Juſtices of the County. *Dal.* 170.

*Who may ſerve the Warrant*, vide *Warrant.*

The Conſtable is firſt to acquaint the party with the matter in the Warrant; and if he refuſe to goe before the Juſtice to find ſureties, he may arreſt him and carry him to the Gaole, without carrying him to the Juſtice. *Lam.*90. *Dal.*170. *Br.Faux Impriſ.*18.

If the party yeeld to find ſurety, the officer is not bound to goe up and downe with him, but may keep him untill he can procure ſureties to come to him; if afterward he make reſiſtance, or offer to goe away, he may by his warrant carry him to the Gaole, and ſet him in the ſtocks till he can get aid to convey him to the Gaole. *Dal.*170. *Lam.*92.

The arreſt is not juſtifiable except the Officer do carry him to the Gaole that refuſeth to find ſureties. *Cro.*171.*b. Dal.*171.

The

The party may goe before any other Justice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travell out of the division where they dwell. Nay it is at the election of the officer to carry the party to any other Justice, rather then to give the election to the delinquent. *Dal.*171. *Lam.*94.

The party comming before the Justice is to offer his sureties, or else the Justice is to commit him, for the Justice needeth not to demand them. *Dal.*171.

If the party refuse before the Justice of Peace to find sureties, the Officer by the first Warrant may commit him. *Dal.*171. *Lam.*92.

The Officer is fineable if he arrest the party, and doe not carry him before a Justice of peace, if he be willing to find sureties; secondly, if upon refusall they arrest him, and doe not carry him to the Gaole. *Dal.*171.

The party being imprisoned, the Justice of peace may make him his *Liberate*; first, if the complainant die; secondly, if he doe enter surety of the Peace. *Dal.*171.

If the imprisoned have a suit depending in the common pleas, by some opinions, the imprisoned may be discharged by a writ of priviledge. *Quære tamen*, *Dal.*171. *Lamb.*94. *Cro.*138. *a.* nu. 4.

A sworne and knowne officer needeth not to shew his Warrant, but the servant of the Justice must shew it if it be required. *Lamb.* 89. *Dal.*340.

If Husband and Wife be bound to appeare, and in the meane time to keepe the Peace,

and the Husband onely appeareth, the recognisance is not forfeited. *Dalt.* 179. *Quare Cro.* 144. *b.*

## Suspicion and suspects of felony.

A suspect of felony ought not to be arrested by a Warrant from a Justice of peace, unlesse he be indicted before; for if the Bailiffe which serveth the Warrant doth suspect him, he may doe it of himselfe without a warrant; and without suspicion the Justices warrant is no warrant. *Lam.* 188. *Dal.* 339. *Cro.* 147. *b.* 148. *b.* 197. *a.* nu. 21. *Quere Dal.* 339. *Br. Faux Imprif.* 8.

Suspicion onely without felony committed is no cause to arrest another. *Cro.* 154. *a.* nu. 28. *Dal.* 331. *Brook ibid.* 1. 4.

A felony being committed, every man may arrest suspicious persons that be of evill fame, &c. and if such person make resistance, the other may justifie to beat him. *Dalt.* 345.

The Constable or other person that arresteth one for felony or suspicion, must himselfe suspect. *Dal.* 311, 345. *Cro.* 99. *b.* nu. 43.

« In an arrest for suspicion of felony, the « party that causeth the arrest must suspect « him, and also shew some cause of suspicion: « otherwise every man may arrest another « for felony done. *Cro.* 99. *b.* nu. 44. *Dal.* 311, « 312. where he maketh a *quare*.

## Swans.

Taking away from his owne or another mans

mans ground Swans eggs of another mans, upon conviction and examination of witnesses is imprisonment for a yeare and a day, and losse of ten pound. *Lam.* 446.

To steale Swans unmarked, if they be *domestici*, and kept in a mans manour or private rivers, is felony. *Dal.* 267.

## Swearing.

He that sweareth or curseth, being convicted by hearing of any Justice of the peace, or by oath of two witnesses, or confession of the party before a Justice of Peace, loseth 12. pence to the poore, where the offence shall be committed, to be levied by distresse, the offence being proved within 20. dayes, or for default of a distresse to be set in the stocks three houres. 21 *Jac. c.* 20. & 3 *Car. cap.* 4.

The Warrant for distresse is to be made to the Constable, Churchwardens, and Overseers of that parish where the offence is committed. 21 *Jac. c.* 20.

The offender being under twelve yeares of age, and not forthwith paying his 12. pence, by warrant of a Justice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence. *Ibid.*

## Taxations, *vid.* Stock of the shire.

TAxations made for a Common-wealth, as making or mending of bridges, high-wayes, causeys, sea-banks, &c. shall be upon all persons though they assent not. *Dal.* 141. *Coke* 5. 63. *Br. Customes* 6.

« A towne is amerced, and by assent of « neighbours every inhabitant is assessed, « and they appoint I. S. to collect it, and, « for non-payment such a day, to distreine: « such a distresse taken by I. S. for rates is « good. *Dal.* 141. *Brook Customes* 6. *Coke* 5. 63. « *Doctor & Student* 74. *b.*

## Tale-bearers, *vide* News.

## Tanners, *vide* Leather.

## Taverne-keeper.

Assignement of such as shall keepe a Taverne to utter wine, is to be made at the generall Sessions, unlesse it be otherwise by especiall grant. 7 *Ed.* 6. *c.* 5. *Lam.* 614.

## Testimoniall.

Testimoniall under the hand of one Justice of Peace sealed, is sufficient to passe in hay-time and harvest-time from one County to another. *Lam.* 190.

In all testimonials and passports, some assured marks of the party, by which he may infallibly be distinguished and knowne from others, are fit to be specified. *Lamb.* 206.

Testi-

Teſtimoniall for a ſerving-man turned from his maſters ſervice, or whoſe maſter is dead, ought to be made by two Juſtices of Peace. 27 *El.c.*11. *Lam.*331. *Dal.*127. maketh a *Quære.*

"None retained in husbandry is to depart without Teſtimoniall at the end of "his terme. 5 *El.c.*4. *Vide* Servants.

## Theft.

Theft is a fraudulent and felonious taking of another mans perſonall goods, in the abſence of the owner, and without his knowledge. *Lam.*272. *Dal.*262.

Theft is either Grand-larcenie, or Petie-larceny.

Grand-larceny is when goods ſtollen are above 12.pence, and it is felony of death, except the party be ſaved by his book. *Dal.*263.

Yet if the goods be of more value, and the Jury find it did not exceed 12.pence, it is not Grand-larceny. *Dal.ibid.*

Pety-larceny is if the goods doe not exceed 12.pence, and is not felony of death, but impriſonment for ſome time, or whipping, or ſome other puniſhment by the diſcretion of the Juſtices before whom the party is arraigned. *Dal.ibid.*

For pety-larceny, the Juſtice of peace before whom the offender ſhall be brought, is not to puniſh him, but either to ſend him to the houſe of correction, or to baile him. *Dal.ibid.*

Pety-larceny is forfeiture of goods and he attels.

Sixe pence, foure pence, and three pence, being taken by one at severall times from one and the same person, may be put together in one indictment. *Dal.*263. *Lam.*273. *Stam.*24.

If two, or more, steale above 12. pence from one, it is felony of death in every one. *Dal. ibid. Lam.*273.

*The manner.*

To make an act larceny, there must be first a taking, secondly, a carrying away. *Lamb.* 277. *Dal.*263.

Yet it may be felony though the offender came to it by the delivery of the owner. *Lam.* 278.

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony. *Dal.*264. *Lam.*278. *Cro.*35.*b.*nu.4.

A Carrier carrieth goods to him delivered to the place appointed, and there breaketh them up, and embezelleth them; it is felony. *Dal.*264. *Cro.*36.*a.*nu.13. *Lam.*279.

A Carrier taketh out parcels of the goods to him delivered; it is felony. *Dal.*264. *Cro.* 36.*a.*nu.11.

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his owne use; it is felony, *Dal.*264. *Lam.*278.

*Where, after delivery, the imbezelling is no felony.*

A Carrier imbezelling the whole. *Lam.*278. *Cro.*36.*a.*

A

A ſtranger borroweth a horſe, and rideth away.

A Clothier delivereth his wool to his work-folk.

One delivereth his goods to another to keepe.

One delivereth money to *A.* to pay *B.*

## *Felony in ſervants by force of the ſtatute, 5 El. cap. 10.*

Servant of the age of 18. yeares (other then an Apprentice) to whom any money, goods, or chattels, &c. by his maſter or miſtreſſe ſhall be delivered to keepe, of the value of 40. ſhillings or above; if he goe away with, or convert the ſame to his owne uſe, with intent to ſteale the ſame, or to defraud his maſter or miſtreſſe, it is felony, if it be proſecuted within a yeare. *Lam.279. Dal.265.*

## *Wherein are divers caſes.*

A man receiveth of his maſter 20. pound in gold to keep, which he changeth into ſilver, and runneth away with it, they are both of one nature, therefore felony. *Dal.265. Lam. 280. Cro.35.b.nu.6.*

One ſervant delivereth to his fellow-ſervant to the value of 40. ſhillings of his maſters goods, and goeth away with it, or converteth it to his owne uſe; it is felony. *Dal. ibid. Cro.50.a. Lam.280.*

A ſervant maketh a garment of his maſters cloth, and goeth away therewith; it is felony. *Dal.265. Cro.50.a.*

Quere

*Quere* of barley converted into malt, or money melted into a piece of metall. *Dal.* 266.

An obligation is delivered unto a servant, and he goeth away with the money received upon the same obligation; it is no felony within the statute of 5 *El. c.* 10. for the master delivered not the money. *Dal.* 265. *Cro.* 35. *b.* nu. 5. 50. *a.*

The servant carrieth his masters wares to market, selleth them, & goeth away with the money, or converteth it to his owne use; it is not felony within the statute of 5 *El. c.* 10. *Dal.* 266. *Cro.* 50. *a. Lam.* 280.

A receiver receiveth rents, and goeth away with them, it is no felony, for the statute is, where the master delivereth to keepe. *Dal.* 266. *Cro.* 50. *a.*

I deliver to my servant a horse to ride to market, or money to buy things or pay another, and he goeth away with it; it is no felony at the Common-law, for it was of his masters delivery. *Dal.* 266. *Cro.* 35. *b.* nu. 7. *Quare* if it be not felony by 5 *El. c.* 10.

« My shepherd selleth my sheep falsly, it « is felony. *Cro.* 35. *b.* nu. 9. but *Stamf.* 25. *a. è contra.*

A servant keepeth the key of his masters chamber doore, and taketh away above the value of 12. pence, it is felony at the Common-law, for they were not delivered him. *Dal.* 266. *Lam.* 279.

A guest taketh the sheets or other goods of the hoste feloniously into some other roome of the house, it is felony. *Dal.* 266. *Cro.* 35. *a.* nu. 2. *Lam.* 281. *Br. Coron.* 107.

A

A man feloniously taketh an horse, and is apprehended before he gets out of the close, where hee went. *Lam.* 281. *Dal.* 267. *Cro.* 36. *a.* nu. 12.

## *Not enquirable before Iustices of Peace.*

A servant taketh away or spoyleth his deceased masters goods; in default of appearance in the Kings Bench after Proclamation, it is felony. *Dal.* 266. *Cro.* 56. *a.* 6. 33 *H.* 6. *cap.* 1.

## *Of what things felony may be committed.*

Of moveable goods, as money, plate, apparell, houshold-stuffe, &c. so of corne, hay, trees, fruit, &c. being severed from the ground. *Dal.* 267. *Lam.* 273.

Of domesticall things, as horses, mares, colts, oxen, kine, sheep, lambs, swine, pigges, hens, geese, ducks, turkeyes, or any other domesticall beasts or birds of tame nature: and though they runne or flie away out of the owners sight, the detainer is punishable by action. *Dal.* 267.

Of wilde nature, young pigeons out of another mans dove-house, young hawkes or herons breeding in Parks or severall grounds, fishes kept in a trunk or pond. *Cro.* 36. *b.* nu. 22. *Lam.* 274. *Dal.* 267. *Stam.* 25 sayeth goshawks.

*Quære* of old doves in a dove-house. *Lamb.* 274.

So

So swans marked, and at large, and tame deere marked and domesticall, if the taker know it to bee tame. *Dal.* 267. *Lam.* 275. *Cro.* 36. *b.* nu. 23.

By statute it is felony to hunt deere, or conies after some sort in park, forrest, or warren, or to take a tame beast or other thing in a park, by manner of robbery. *Vide* 3. *E.* 1. *c.* 20. 1 *H.* 7. *c.* 7. *Lam.* 275. *Dal.* 268.

So to take away or conceale an hawke. *ibid.*

To steale the flesh of tame or wilde fowle dead, is felony. *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull wooll off the sheeps backs, or to kill them for their skins. *Dal.* 269. *Cro.* 36. *a.* nu. 17. *Lamb.*

A man may commit felony in taking his owne goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue. *Dal.* 270. *Cro.* 37. *b.* nu. 42. *b.* *Stam.* 26. *a.* *Lamb.* 277. *Br. Cor.* 142. *quære.*

I lend or deliver my plate or goods to another who melteth my plate, or changeth the fashion of my goods; to take them feloniously is felony in me. *Dal.* 270. *Cro.* 37. *a.* nu. 34. *Lam.* 277.

If a man pursue or take a felon that hath stollen his goods; taketh them and suffereth the thiefe to escape, he is no accessary; for hee may *agere civiliter aut criminaliter in initio.* *Lam.* 290. *Termes of Law. Titu. Theft-boote.* *Cro.* 37. *a.* 45. *b.* 42. *b.* *P. R.* 131. *Dal.* 296.

If the party robbed take money, &c. of the thiefe,

thiefe, to the end that he ſhall not give evidence againſt him, whereby the thiefe eſcapeth, hee is acceſſary to felony of his owne goods. *Lam.* 290. *Dal.* 296. *Cro.* 41. nu. 5.

*Quære*, if a man having made complaint to a Juſtice of Peace, take his ſtollen goods againe, and doth not proſecute the matter, whether it make him not acceſſary, for that he did once *agere criminaliter*. *Dal.* 296.

## *Of what things felony is not committed.*

Things which are reall chattells. *Lam.* 275, 276. *Dal.* 270.

To cut downe any tree or corne, or pull any apples, or carry them away, *Dal.* 270. *Lam.* 276. Being cut and gathered for one, and then for another to carry them away, it is felony: or if a ſtranger cut at one time, and carry away at another time, it is felony, *Dal.* 270. *Cro.* 36. *b.* nu. 26. *Lam.* 276.

Lead upon an houſe or Church is part of the freehold. *Dal.* 270. *Cro.* 37. *a.* nu. 33.

Evidence of a mans land, indenture of leaſe, or other writings in boxe or out of boxe, cannot bee valued. *Lam.* 275. *Dalt.* 270.

To take away an infant in ward, is no felony. *Dal.* 270. *Lam.* 276.

Treaſure trove or hidden, wrecke of the ſea, goods wayved or ſtrayed; for the owner is unknowne. *Lam.* 276. *Br. Coro.* 96. *Dal.* 270.

But felony may bee committed by taking

*bona*

*bona ignoti*, or *mortui et ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation in time of vacation. *Lam.* 276, 277. *Dal.* 270.

## *What persons are chargeable in larcenie.*

A woman covert by her selfe, her husband not knowing thereof, committeth larceny as principall, if she steale another mans goods; or as accessary, if she receiveth the thiefe that stole them, or receiveth the stollen goods into her house, knowing them to be so, or locketh them up, and the husband knowing thereof, the law will impute the fault to him, not to her: but if the husband so soone as he knoweth it, forsake his house, and her company, and remaine elsewhere, he shall not be charged for her offence. *Sta.* 26. *P.R.* 130. *Lam.* 282, *Dal.* 271.

The husband delivereth goods to a stranger, the wife stealeth them from the stranger; it is felony in the wife. *Dal.* 271.

A stranger goeth away with another mans wife, and against her will carrieth away her husbands goods, it is felony in the stranger. *Cro.* 35. *a.* nu. 2. *P.R.* 130. *Dal.* 271.

A servant stealeth by the compulsion of his master, it is felony in both. *Cro.* 37. *a.* nu. 37. *Dal.* 273.

## *Who are not felons.*

A wife stealeth by the compulsion of her husband, it is no felony in her. *Cro.* 36. *b.* nu. 27.

37. a. nu. 36. *Lam.* 282. *Dal.* 271. but to doe murder by her husbands compulsion, is felony in both. *Dal. ibid. Cro.* 37. *a.* nu. 38.

A wife stealeth by commandement of her husband without constraint, *quære Dal.* 271. *Stam.* 26. *P. R.* 130. *Lam.* 281.

The husband and wife together steal goods, it is felony in the husband only. *Dal.* 271. *Sta.* 26. *Lam.* 282.

A wife stealeth goods delivered to her husband; it is no felony. *Dal.* 272. *Cro.* 37. *a.* nu. 35.

The wife stealeth her husbands goods, and delivereth them to strangers, it is felony in neither. *Dal.* 272. *Stam.* 27. *Lam.* 282. *Cro.* 35, *a.* nu. 2.

The wife receiveth the husband being felon, and relieveth him, she is no accessary. *Cro.* 42. *b.* nu. 22. *Dal.* 272. *Stam.* 26. *f.*

An ideot, lunatick, dumb and deafe person, and an infant are chargeable in larceny after the same sort as they are chargeable in homicide. *Lam.* 282. *Dal.* 273, 295. *Vide* Manslaughter.

## Threatning.

He that shall be threatned to be hurt in his body, to be beaten, wounded, maimed, killed, may crave and have the Peace against the other. *Dal.* 164. *Lam.* 82.

If a man be threatned to have his goods burned, *quære* if he may have the Peace. *Dal.* 164. *Lam.* 82.

To threaten to imprison a man, is no cause of

of the craving of the Peace; for the wronged may have his action of false imprisonment, or his Writ *de homine replegiando*. *Dal.* 164. *Lam.* 82, 83. *Quere.*

To enter peaceably into an house, &c. and put out *B*, and presently threaten and say to *B*, that if he doe come thither againe to enter, he will kill him; this seemeth a forcible entry: and if *B*, come againe to make his entry, then if the other shall threaten to kill him, if he entreth, it is a forcible detainer. *Dal.* 202. *Cro.* 70 *b.* nu. 39.

## Tile-making.

One Justice of Peace may enquire, heare, and determine by his discretion, as well by examination of the offender, as otherwise, the offence committed in tile-making, and assesse the fine therein limited, and may appoint men skilfull to be searchers. *Quere tamen* whether one may doe it alone, *Lam.* 193, 194. *Dal.* 144. 17 *E.* 4 *c.* 4.

Earth for tile is to be digged before the first of November, and to be turned and stirred before the first of February following, and to be tryed from stones, veines, and chalk, and not to be wrought before March following, or lose double the value to the buyer. 17 *E.* 4 *c.* 4. *Lam.* 468.

Plain tile put to sale, is to be 10. inches and an halfe long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shillings a hundred. 17 *E.* 4 *c.* 4. *Lam.* 468.

Roofe tile must be 13 inches long, half inch and

and halfe quarter of an inch thicke, conveniently deepe, or lose 6 shill. 8 pence an hundred. *ibid.*

Gutter tile must be 10 inches and a halfe long, of convenient breadth, depth, and thicknesse, or lose two shillings an hundred. *ibid.*

Searchers of tile, for every default in searching, lose 10 shill. *ibid.*

## Tipling.

The Inne-keeper, Victualler, or Alehouse-keeper, that suffereth any to continue tipling in his house, shall forfeit 10 shill. to be levied by "distresse, by warrant from one Justice of "Peace, and to be sold after 6 dayes; for want "of distresse to bee sent to the gaole till pai-"ment be made. 1 *Jac. c.* 9. 7. *Jac. c.* 10. 1 *Car.* c. 4. *Lam.* 192.

"The Oath of Constables, Churchwardens, "Headborowes, Tithingmen, and Affeer-"ners, are to be inlarged, and extend to pre-"sent all offences against the statutes of 1 *Jac.* "*c.* 9. *and* 4 *Jac. c.* 5. 21 *Jac. c.* 7.

Any continuing tipling in an Inne, Victualling-house, or Alehouse, shall forfeit 3. shill. 4 pence to the poore, or not being able to pay the same, shall sit in the stocks foure houres. 1 *Jac. c.* 9. 7 *Jac. c.* 10. 21 *Jac. c.* 7. *vide* Alehouses. 4 *Jac. c.* 5.

## Tithes.

Two Justices of Peace, one being of the

*Quorum*

*Quorum*, upon complaint by any competent Judge of tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to bee attached and committed to ward, till hee finde surety by recognizance to obey the sentence and processe of the Judge, 27 *H.8. c.7.* 27 *Eliz.c.*11. *Lam.*357. *Dal.*141.

Upon complaint in writting by an Ecclesiasticall Judge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged, two such Justices of Peace may cause the party to be attached and imprisoned, till hee finde surety to performe the sentence, 32 *H.8.c.7. Dal.*144. *Lam.* 357. *Cro.*197. *a.* nu.22.

## Toll.

Miller taking Toll by heaped measure, is so bee fined. 31 *Eliz. de pistoribus. Lam.*461.

Miller taking excessive Toll, (*viz.*) more then the twentieth, or twenty fourth part of the Corne according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise then by strike, shall bee grievously amerced. 51 *H.3.c.*3. *Cro.*92. *a.*

A Miller shall have Toll of a bushell of hard Corne, three wine pintes, and of a bushell of Malt but one pinte, if the Corne be brought to the Mill; for that a Mill will grinde three bushells of Malt as soone as one bushell of hard Corne, *Cro.*92. *a. Quære*, for 51. *H.*3. *c.*3. doth not expresse so much. *Vide Dal.*151.

Toll-gatherer for horses taking above a penny

penny for one contract or entring the parties names, and that in the ſame place onely where the market or faire is, and between ten of the clock in the morning and Sunne ſetting, loſeth ten ſhill. and is to anſwer the party grieved. 2 &. 3. P. & M. c. 4. Lam. 471, 472.

Toll-taker not knowing the ſeller of an horſe, mare, &c. the ſeller may bring one credible witneſſe that will teſtifie he knoweth the ſellers name, myſtery, and dwelling place, and there to enter them with the true price of the horſe, or loſeth 5 l. 31 Eliz. c. 12. Cro. 91. a. Lam. 472.

Any giving teſtimony to the toll-taker, unleſſe he doe truly know the ſame, loſeth five pound. ib.

"A thiefe ſelleth a ſtollen horſe, by a falſe "name, and is ſo entred into the Toll-book, "ſuch miſ-naming maketh the ſale voyd. Dalt. 74.

Toll-taker refuſing to give to the buyer or taker of ſuch an horſe, &c. a true note in writing of his entry, the party paying two pence for the ſame, loſeth 5 l. 31 El. c. 12.

## Tranſportation.

Every man may tranſport corn, it being at the prices following, except it be forbidden by proclamation. 1 Jac. c. 25. 21 Jac. c. 28. 3 Car. c. 4.

| | | |
|---|---|---|
| Wheat | a quarter | 26 ſhill. 8 pence. |
| Rye and Peaſe | a quarter | 15 ſhill. |
| Barley and Oats | a quarter | 14 ſhill. |

Every

Every subject borne within the Realm, when the prices of corne at the times, places, and havens when and where the said corne shall be bought, shipped or laden, exceed not the rates following, may carry and transport of his owne, and buy to sell againe in markets, or out of markets, and to keep, or sell, or carry, or transport any of the said corne from the places where they shall be of such prices, unto any parts beyond the seas in amity with his Majesty, in English vessels, or carry or sell in other places within the realme, except where such transportation shall be forbidden by the Kings Proclamation. 3 *Car.* 4.

| | | |
|---|---|---|
| Wheat | a quarter | 32. shill. |
| Rye, Pease and Beans | a quarter | 20. shill. |
| Barley | a quarter | 16. shill. |

Every man may transport any beere, when the price of a quarter of Malt exceedeth not 16. shillings.

## Traverse.

Traverse is the denying of the chiefe matter in an indictment. *Lam.* 540.

Traverse upon a forcible entry or detainer found upon presentment, *quære* before whom the traverse is to be made or tendred. *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of a force, the Justice of Peace must make the restitution by the statute of 8 *H.* 6. or else deliver or certifie the presentment in the Kings Bench. *Lam.* 158. *Dal.* 60.

Traverse

Traverse lyeth where one Just. of P. alone will take upon him to record a riot that he seeth, and the party shall not be concluded there by. *Lam.* 182.

Traverse of an indictment of felony or treason is not usuall. *Lam.* 541.

Traverse of an indictment may be before the Justices of Peace. *Lam.* 542. If the Court where the presentment is found cannot award processe thereof, it cannot receive a traverse of the presentment, as a leet of bloodshed. *Lam.* 542.

That Court that may award processe *ad respondendum* upon an indictment, may take a traverse of it. *Lam.* 543.

Presentment of bloudshed found in the Sheriffes turne, and sent to the Justices of Peace, cannot be traversed before the. *La.* 542.

One of the enquests presents himselfe, it is not traversable. *Lam.* 543.

"Where Proc. is *ad respondendum* goeth out "upon an indictment that is traversable, "the party may offer and have his traverse. "*Lam.* 542, 543.

"*Quære* whether a man be admitted to tra- "verse a presentment except it charge him in "the freehold. *Lam.* 543.

## Travelling beyond the Seas.

Officer of Ports, or owner of a Vessell, suffering any woman or child under 21. years of age, except Saylers shipboyes, Apprentices or Factors of Merchants in their trades, to goe, or carrying any of them beyond sea without license of the King or sixe of the Privy Coun-

sell

ſell under their hands, ſuch Officer of the Ports forfeiteth his Office and all his goods, and the maſter of the veſſell his veſſell, and impriſonment without bayle for tweln moneths, and loſeth alſo all his goods. 3 *Jac. cap.* 4.

Any ſubject going beyond the ſeas to ſerve any forraine State, not taking the oath of allegeance before the Controller or Cuſtomer of the Port, or either of their deputy or deputies before his going, ſhall be a felon; the oath by them to be regiſtred and certified into the Exchequer once every yeare, or loſe 5. l. for every oath not certified. 3 *Jac. cap.* 4.

Any Gentleman, or of an higher degree, or Captaine, or other officer in the army before his going beyond ſea to ſerve any forraine Prince or State, muſt be bound by the Controller or the Cuſtomer of the Port, with two ſureties allowed by the Officer, unto the King in 20. pound, with condition not to be reconciled to the Pope, nor to practiſe any thing againſt the King, but knowing any thing to reveale it: the ſame bond to be by them regiſtred and certified into the Exchequer once every yeare, or loſe 5. pound for every default. 3 *Jac. cap.* 4.

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond ſea without licenſe of the King or ſixe of the Privie Counſell, (whereof the principall Secretary to be one) under their hands and ſeals, ſhall take no benefit by deſcent or otherwiſe of any lands, leaſes, goods or chattels, untill he or they being 18. yeares old or above, take

take the oath of Allegeance before one Juſtice of Peace of the County where the Parents dwelt or dwell: and in the meane time the next of kin, being no Popiſh Recuſant, to enjoy them till he ſhall conforme to take the ſaid oath of Allegeance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the meane profits, and in reaſonable time to make payment thereof. And the ſenders loſe 100. pound, one third part to the King, another to the ſuer, another to the poore. 3 *Jac.c.*5.

*Vide* Tranſportation.

## Traveller.

Inne-keeper or Alehouſe-keeper refuſing to lodge a traveller, Juſtice of Peace, or Conſtable may compell him. *Quære* how, *viz.* to preſent the offence at the Aſſiſes or Seſſions. *Dal.*28. *Br. Action ſur le caſe* 76.

Sir *James Lee* delivered that the Inne-keeper or Alehouſe-keeper may for the ſame be indicted, fined, and impriſoned, or the party grieved might have his action. *Dal.*28.

## Treaſon.

Treaſon is a grievous offence done or committed againſt the King in his perſon, the Queene his wife, his Children, Realme, or authority. *Dal.*227.

As,

To compaſſe the death of the King, Queen his wife, or of their eldeſt ſon and heire; or to intend any of their deaths, though it be not effected. *Dal.*227.

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sons wife. *Dal.*228.

To levy war against the King in his realm. *Dal.ibid. Br.Treason* 24.

To conspire to levy war against the King. *Dal.ibid.*

To conspire with a Governour of another countrey to invade the Realm. *Dal.ibid.*

To kill one that is sent on the Kings message. *Dal.ibid.*

To encounter in fight, and kill such as be assisting to the King in his wars, or come to help the King. *Dal.ibid.*

To aid the Kings enemies in his Realme. *Dal.*228.

To counterfeit the Kings great Seale, Signe-Manuall, Privy-signet, or Privy-Seale. *Dal.*229.

To take an old seale and put it to a new patent, *quære* whether treason or misprision. *Dal.ib. Sta.*3.*C. Br.Treas.*3. And so of those that without authority set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seale, and so get it sealed. *Dal.ibid.*

To counterfeit the Kings coyne, or any coyne currant within the Realme. *Dal.*229.

To bring in any false money, knowing it to be false. *Dal.*229. 1.*&* 2.*P.&M.c.*3.

« To clip, wash, and lighten or falsifie any « coyne currant within the Realm. *Dal.ibid.*

« To coyne money not having authority. « *Dal.ibid.*

If he which hath the Kings warrant to coyn, doth

doth coyne money in England, Ireland, or elsewhere lesse in weight then the ordinance, or coyneth false metall. *Dal.*229. *Br. Treas.*19.

*All counsellers, procurers, consenters, or aiders of any the forenamed Treasons, are within the purview of the statute* 25 *Ed.*3. *for in treasons all offenders are principall. Dal.*230.

"Counterfeiting gold or silver not the "proper coyn of this Realm, is misprision of "treason. 14 *El.c.*3.

To kill the Kings Chancellour, Treasurer, Justice in Eyre, of Assise, of *Oyer* and *Terminer*, being in his place, and doing his office, is high treason. *Dal.*230.

To extoll the authority of the Bishop of Rome within any of the Kings dominions, and the procurers, counsellers, ayders and maintainers thereof, the first offence is *Præmunire*, the second treason. 1 *El.c.*1. 5 *El.s.*1. *Lam.*411. *Dal.*231.

So to bring over any bookes that shall maintain, set forth or defend such authority, and the readers and hearers that shall justifie them. *Dalt.*231.

So deliverers of such books to others, with allowance and liking of the same. *Dal.ibid.*

So the printers and utterers of such books be all within the meaning of the statute. 5 *El.c.*11. *Dal.ibid.*

Refusing the oath of Supremacy, the first offence is *Præmunire*, the second offence treason. 5 *El.c.*11. *Dal.*205. *Lam.*410.

To obtaine from Rome, or by any authority from thence any Bull or writing to absolve and reconcile such as will forsake their

obedience to the King, and yeeld it to the Pope, or give or take abſolution by colour of ſuch Bull, or publiſh, or put in ure ſuch Bull. 13 *El.c.*2. *Dal.*231. *Lam* 226.

To abſolve, perſwade, or withdraw any ſubject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romiſh religion for that intent, or move them to promiſe obedience to any other ſtate, or procure, counſell, or aid them that doe it, is treaſon. 23 *El.c.*1. 3 *Jac.c.*4. *Lam.*220,226,412. *Dal.*231.

To be willingly abſolved, perſwaded, withdrawne, or reconciled to promiſe ſuch obedience, or to procure, counſell, aid and maintaine the ſame, is treaſon, except within ſixe dayes after their return into the Realm, they ſubmit according to the ſtatute. 3 *Jac. c.* 4. *Dalt.ibid.*

For Jeſuite, prieſt, or other Eccleſiaſticall perſon (made by authority from the Pope) to come into, or remaine in any of the Kings dominions, contrary to the ſtatute 27 *El.c.*2. is Treaſon.

To compaſſe the death of an uſurper of the Crowne, is Treaſon, for which the offender may be arraigned in another Kings time. *Br. Treaſon* 10. *Dal.*227.

To intend to deprive, depoſe, or diſ-inherite the King, or ſay he will be King after the King dyeth. *Dal.*227.

To ſet at large unlawfully any committed for Treaſon, is Treaſon by the Common-law. *Dal.*229.

One impriſoned for felony breaketh priſon,

ſon, whereby a traitor eſcapeth; it is Treaſon in him by the Common-law. *Dal.* 229. *Cro.* 35. *a.* nu. 5.

Voluntarily to ſuffer one to eſcape that is committed, or onely under arreſt for Treaſon, is Treaſon by the Common-law. *Stam.* 32. *Dal.* 229.

Forfeiture in caſe of Treaſon is of lands and goods to the King, and at this day by 26. *H.* 8. *ca.* 13. 5 *Ed.* 6. *ca.* 11. his lands entailed, and his wife her dower, ſaving in certain caſes. *Dal.* 234.

Judgement and condemnation of a woman in caſe of Treaſon, is to be drawn on a hurdle to execution, and burned. *Stam.* 182. *Da.* 234.

## Treaſurer.

« Treaſurer for reliefe of Gaoles is to be « choſen at Eaſter Qu. Seſſions by the more « part of the Juſtices of Peace to be of 5. *l.* « in lands or 10. *l.* in goods in the laſt ſubſi- « dy, to continue but for one yeare, and then « to give up his account at Eaſter Seſſions « to his ſucceſſor. 43 *El. c.* 2.

« The elected refuſing the office, or to give « reliefe or accompt, is to be fined by the « Juſtices in Seſſions, or by the Juſtices of « Aſſiſes by diſcretion, but not under 3. *l.* « 43 *El. c.* 2.

« Treaſurer for Gaoles is to pay over to « the Lord chiefe Juſtice, and to the Knight « Marſhall quarterly ſuch ſummes as the « Juſtices of Peace doe appoint. 43 *El. c.* 2.

« Treaſurer for maimed ſoldiers is to be

« elected by the more part of the Juſtices at « Eaſter Seſſions, and (not being a Juſtice « of Peace) to be 10. l. in lands or 15. l. in « goods in the laſt ſubſidy, to continue but « one yeare, and for refuſing the office, « or miſdemeanors, &c. to be fined by the « more part of the Jaſtices, but not under 5. « l. 43 *El. c.* 3. and to give up his accompt to « his ſucceſſor, within ten dayes after the « Seſſions.

« The Churchwardens are ten dayes be- « fore every Qu. Seſſions to pay over to the « High-conſtables the taxation for Gaoles. « 43 *El. c.* 2. And the Churchwardens and « pety Conſtable at the ſame time to pay to « the High-conſtable the taxe for maimed « ſouldiers. 43 *El. c.* 3. And the High-conſta- « bles are to pay the ſame to the Treaſurers « at the next Q. Seſſions. 43 *El. c.* 2. & 3.

« If default of payment be made by the « High-conſtable, he doth incur the penal- « ties, *viz.* of 20. s. a time for the Gaole- « money, 43 *El. c.* 2. and of 40. s. for ſouldi- « ers money, *c.* 3. And if default be in the « Churchwardens, for gaole money 10. s. a « time. If for ſoldiers money, the Church- « wardens and pety Conſtables loſe 20. s. a « time. 43 *El. c.* 2. & 3. The ſaid forfeitures « to be levied by the Treaſurer by diſtreſſe « and ſale of the offenders goods, and taken « in augmentation of the ſtock.

Treſpaſſe, *vide* Hedge-breakers.

## Tryall.

As well Noblemen as Gentlemen in caſes of

of Felony or Treaſon, or miſpriſion of Treaſon, are to be tryed by their equals. *La.* 539.

In Riots, Routs, unlawfull aſſemblies and forcible entries, Nobility ſhall be tryed by common jurours. *Lam.* 539.

All forraine Pleas tryable by Jury, and pleaded by any indicted of Treaſon, Murder or Felony, ſhall be tryed in the county where the party is arraigned, and by Jurors of that county. 22 *H.* 1. *c.* 14. 32 *H.* 8. *c.* 3. *Lam.* 552.

Aliens indicted of Felony or Murder, muſt be tryed *per medietatem linguæ*. *Lam.* 554.

Peere of the Realme indicted of Treaſons upon the ſtatute of 3 *Jac. c.* 4. is to be tryed by his Peeres. 3 *Jac. c.* 4.

All Treaſons, miſpriſion of Treaſons, and concealment of Treaſon done or committed out of the Realm, ſhall be enquired and tryed within the Realme. 35 *H.* 8. *c.* 2. *Dal.* 235. *Co. Inſt.* 261. *b.*

« He who is no Lord of the Parliament, « being arraigned for Treaſon or Felony, « ſhall be tryed by Knights and others, and « not by Lords of the Parliament. So ſhall « Biſhops by reaſon that they are Lords of « the Parliament by their office, and not in « reſpect of their Nobility. *Cro.* 110. *b.* nu. 6. « *Stamf.* 153. *A.*

## Turne of the Sheriffe.

Indictment at the Sheriffes Turne to be certified to the Juſtices at the Qu. Seſſions. *Vide* Certificate.

Sheriffes Turne to be holden within a moneth after Eaſter, or within the moneth

after Michaelmas. *Lamb.* 504.

Eſtreats of the Juſtices of Peace of Fines aſſeſſed upon preſentments in the Turne being inrolled and indented, are to be levied by the Sheriffe to the uſe of him that was Sheriffe at the time of preſentment. 1 *Ed.*3. *cap.*7. *Lam.*585.

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VAgabonds, *vide* Rogues.

## *Venire facias.*

Juſtices of Peace may award a *Venire facias* againſt the enditour, to amend a Bill upon the firſt oath. *Lam.*507. 8 *H.*5.*c.*8. *Stam.*97.

Juſtices of Peace cannot award a *Venire facias tot matronas*, to know whether a felon be with child or no. *Lam.*551.

## Verdict.

« The Jury in caſe of felony may give a « ſpeciall verdict, if they will, and the court, « upon examination of the matter, may adjudge contrary to the verdict. As, The Jury found that *A.* killed *B.ſe defendendo*, and « upon examination of the matter, the court « adjudged it to be manſlaughter againſt the « verdict. *Cro.*114.*a.*nu.1.

« Though the indictment ſpecifie the « goods to be above 12.d. yet the Jury may « ſay that the goods were worth but 8. d. « upon which verdict it ſhall be taken as

pety

« pety larceny. *Cro.* 114. *d.* nu. 2.
« A man is arraigned of murder, and by « the Jury it is found but Manſlaughter, it is « good, *Cro.* 114. *a* nu. 3.

## Veſſels.

Veſſels of ale and beere are to be made of ſeaſoned wood, with the marke of him that ſealed it. *Lam.* 460.

Every barrell for beere and every barrell for ale, and ſo every leſſer veſſell by 32 *H.* 8. *c.* 4. ought to containe under paine of 3. ſhill. 4. pence for each default:

Beere { Barrell 36. / Kilderkin 18. / Ferkin 9. } Ale { 32 / 16 / 8 } Gallons.

But now by the ſtatute 1 *Jac. c.* 9. ale and beere ſhall be ſold by retaile by one and the ſame meaſure, namely by the ale-quart. *Cro.* 94. *b.* *Dal.* 151.

*Vide* Aſſiſe of Bread and Beere.

| | | | |
|---|---|---|---|
| Wine | Tunne | 252. | Gallons. *Dal.* 152. |
| | Pipe | 126. | |
| Oyle | Hogshead | 63. | |
| | Barrell | 32. and halfe. | |
| Hony | Rundlet | 16. and halfe. | |

But *Crompton* 94. *b.* ſaith, *Popham* chiefe Juſtice ſaith that the meaſure of wine and ale ſhould be all one, and that ſo it was agreed by the Juſtices according to the ſtandard of the Exchequer. But note, ſaith *Crompton* there, that the ale-quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there

ſhould be a nick in the top of the wooden kan, where the meaſure ſhould be, to which nick the ale ſhould come. *Cro.* 94. *b.* And ſo Mr. *Wallis* Clerk of the Qu. market told him, January 25. 1588.

Herring the barrell, halfe barrell, firkin, ſhall be of the ſame content that ale is, namely the barrell 42. Gallons, &c. 13 *El.c.*11. 11. *H.*7 *c.*23. *Dal.*153.

Sope and Butter ſhall be of the ſame content with ale, and the empty barrell not to be in weight above 26. pound, and for the other veſſels in proportion. 23 *H.*8. *c.*4. *Dal.*151. *Lam.* 461. The penalty is 3. ſhill. 4 pence for each one.

## Victuals and Victuallers.

If Butcher, Fiſhmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other ſeller of victuall doe ſell at unreaſonable rates, and not for moderate gaine, they loſe double value. *Lam.*454. 23 *E.*3. *c.*6. & 13 *R.*2. *c.*8.

Brewer ſelling drinke at higher prices then have beene appointed by the Juſtices of Peace, loſeth after the rate of 6. ſhil. a barrel, 23 *H.*8. *c.*4. *Lam.*455.

Conſpiracy or oath taken, or promiſe made by Butchers, Bakers, Brewers, Poulterers, Cookes, Fruiterers, or any myſterie, or any of them, not to ſel but at prices agreed betweene them, the firſt offence 10. pound, or 20. daies impriſonment; the ſecond, 20. pound or Pillorie; the third, 40. pound, or loſe an eare. 2 *Ed.*6. *c.*15. *Lam.*455.

To

To ſell ſwines fleſh mezelled, or fleſh that dyed of the murraine, or other corrupt victuall. *Stat. de piſtoribus, cap.* 7. 51 *H.* 3. *Lam.* 455. is fineable.

Any, except victuallers in their houſes, buying to ſell againe by retaile butter or cheeſe, unleſſe it be in open Faire or Market, loſeth double value. 3 *Ed.* 6. *cap.* 21. 14 *Eliz. cap.* 11. 27 *Eliz. cap.* 11. *Lam.* 456. 1 *Jac. cap.* 25.

Proceſſe upon the ſtatute of 23 *H.* 6. *c.* 13. againſt victuallers is Attachment, *Capias*, and Exigent.

Brewer, or other ſelling of ale or beere unto any unlicenſed Alehouſe-keeper, other then for neceſſary proviſion for his owne houſhold, loſeth after the rate of 6. ſhillings 8. pence a barrell, one moity to the poore, the other to the informer to be heard and determined at the Qu. Seſſions. 4 *Jac. cap.* 4. *Lam.* 460.

The officer levying the penalty of 4 *Jac. c.* 4. and not delivering the moity to the Churchwarden or Overſeers of the poor, or not diſtributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty. 4 *Jac. c.* 4.

Victualler is within the ſtatute 1 *Jac. c.* 9. 4 *Jac. c.* 5. 1 *Car. c.* 4.

*Vide Tranſportation, Alehouſes, Tipling.*

## Underſheriffe.

*Cuſtos Rotulorum*, or two Juſtices of the Peace,

Peace, one to be Quorum, may give unto Undersheriffes before they exercise their office, the oaths of 1 *Eliz.* of supremacy, and 27 *Eliz.c.*12. touching their office; so of their deputies and Clerks, or any other meddling with returning of writs or execution of processe into any Court of record. So of Bayliffs, any of them executing their office before such oathes taken, lose 40. pound. 27 *El.c.*12. *Lamb.*356,432,433.

Undersheriffe or his Clerk or deputy doing any thing against their oath, lose treble damages to the party. *Lam.*433.

## Unlawfull games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cayls, tennis, casting the stone, football, or other unlawfull game now invented, and hereafter to be invented, shall be suspected to be used, and may arrest the keeper of every such place, and may imprison them untill they find sureties by recognisance no longer to use such house, game, play, alley or place. 33 *H.8.c.*9. *Lamb.* 191. *Dal.*64. *Cro.*79.*a.* 131.*a.* 196.*a.* 197.*b.* *Lam.*349,479.

Justice of peace may arrest and imprison such players till they be bound no more to play at such game. *Lam.*192. *Cro.*172.*a.b.* *Lam.*349,479. *Dal.*63.

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman, or servingman, other

other then of a Nobleman or of him that may dispend 100 l. by the year, playing within the precinct of his masters house, shall not play out of Christmas at any unlawfull game, or in Christmas out of the house or presence of his master. 33 *H.*8.*c.*9. *Lam.*479. 20 shil. every time. *Quere* if other games besides those prohibited 33 *H.*8. *c.*9. be unlawfull, as the morrice and other open dances, bearbaitings, common-playes, and fencings, which seeme to be prohibited by 39 *El.ca.*4. *Dal.*63. 1 *Car.c.*1.

All offences against the statute of unlawful games may be heard and determined at the Qu. Sessions, Assises, or leet within which they shall happen. *Lam.*614. *Vide plus* Sunday.

## Unlawfull assemblies.

An unlawfull assembly is of the company of three or more persons disorderly comming together, forcibly to commit an unlawfull act, as to beat a man, or enter upon his possession, or the like. *Lam.*175. *Dal.* 221. *P.R.*25. *Cro.*61.*a.*nu.3.

First, an unlawfull assembly it is, onely to meet to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of such act, whether it be done or no, is a Rout. Thirdly, to execute such a thing, is a Riot. *Dal.ibid. Lam.*175, 176. *Cro.* 61.*a.*nu.3.

In an unlawfull assembly, Rout or Riot, two

two things are common, and must concur; first, that three persons at least be gathered together; secondly, that their being together breed some apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actuall and expresse violence to affright peaceable men, or imbolden light and busie bodies by their examples. *Lam.* 176, 177.

There be three degrees of seditious and riotous assemblies: the first from three to twelve; the second of 12. or more; the third of 40. and upward. *La.* 183. 1 *El. c.* 17. Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance. *La.* 184.

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24. houres after reveal the same. *Lam. ibid.*

*Vide* Forcible Entry, Riots.

## Usury.

Corruptly to contract for more then 8. pound in the hundred, for forbearance for one yeare, loseth treble value of the moneys, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted. 21. *Jac. cap.* 17.

Scriveners taking above five shillings for procuring 100. pound, and for a bond above 12. pence, forfeit 20. pound. *Ibid.*

## Utlawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Justice or in affray of the people, being indicted thereof, if they be not brought in by attachment or distresse (for insufficiency) are to be outlawed. 8 *Ed.3.c.5. Lam.522.*

After Utlawry the Justices of P. can award no processe, but must certifie the Utlawry into the Kings Bench, *Lam.521,522.*

One outlawed of felony before Justices of Peace doth appeare and saith he was in the Kings service beyond sea under such a Captaine, or in prison in such a County; the Justices cannot write to the Captain or County. *Lam.552.*

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## Wages.

RAtes of wages of servants and labourers are to be made by the Justices of Peace at Easter Qu. Sessions, and by them to be ingrossed in parchment under their hands and seales, and after it shall be lawfull for the Sheriffe of the said County to cause proclamation to be made of the severall rates so rated in so many places of their severall authorities, as to them shall seeme convenient, and as if the same had beene set downe printed by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majesty, and certificate thereof into the Chancery. 39 *El.c.12.* 1 *Jac.c.6.*

Any giving wages contrary to the rates ap-

appointed and proclaimed, loseth 5. pound. 5 *El. c.* 4. 1 *Jac. c.* 6. *Lam.* 474.

Every Justice of Peace (not having lawfull excuse testified by oath of one that is in subsidy 5. pound, &c.) that shall not assemble at Easter Sessions, or within 6. weeks after, to rate the wages of servants, &c. shall lose 10. pound. 5 *Eliz. cap.* 4. *Lam.* 632.

Any having authority by 5 *Eliz. c.* 4. to rate wages, may rate the wages of labourers, weavers, spinsters, and of any working by day, week, moneth or yeare, or by great. 1 *Jac. cap.* 6.

No penalty for not certifying the rates of wages into the Chancery, according to the statute of 5 *El. c.* 4. if they be duely proclaimed. 1 *Jac. c.* 6.

Rates of wages ingrossed in parchment are to be kept by the *Custos Rotulorum*; if in a Corporation, amongst the records thereof. 1 *Jac. c.* 6.

Any two Justices of Peace may imprison without bayle the master for ten dayes for giving, and the servant, workman or labourer for 21. dayes, for taking greater wages then are assessed by the Justices of Peace, and Proclamation thereof made in that county. 5 *El. c.* 4. *Dal.* 80. Every retainer, promise or payment of wages, or other thing whatsoever, contrary to the true meaning of 5 *El. c.* 4. and every writing and bond for that purpose is utterly void. *Dal.* 80.

Justice of Peace may have his action of debt against the Sheriffe for his wages at the Sessions. *Cro.* 177. *a.* nu. 23.

Ju-

Justices of Peace shall be paid their wages out of the fines and amerciaments of the same Sessions, and they ought to assesse the fines in the Court, and then the Clerk shall indent the estreats betwixt the Justices and the Sheriffe, and the Justices shall put their names thereto, to the end the Sheriffe may know to whom to pay wages, and levie the same to pay to the Justices, whereupon the Sheriffe shall be allowed the same upon his accompt in the Exchequer. 14 *R.2.c.*11. *La.* 628. *Cro.*177.*a.*nu.30.

## Wainlings.

Any killing any wainling Calves under two years old to sell, lose 6. shil. 8. pence for every offence determinable at the Quarter Sessions. 24 *H.*8.*cap.*9. 1 *Jac.cap.*25. *Lamb.* 453, 607.

## Wait-lying.

Lying in wait to maime or kill any other, is to be fined. *Lam.*446.

## Warrants.

The Justice of Peace his command by word of mouth is in some cases as strong as his precept in writing. *Dal.*336.

As,

A Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to finde sureties for their good behaviour. *Dal.*336.

So

So upon affray, assault, threatning or any other breach of the Peace done in his presence, he may command the officer being present to arrest such offenders to finde surety for the Peace. *Dal.*336.

But for causes out of his presence one may not arrest another upon the Justices command, but by precept in writing. *Dal.ibid. Br. Peace* 7.

A warrant in writing must be under the Justices hand and seale, or under his hand at least. *Dal.*336. *Lam.*85,88. But it is better if under seale. *Dal.*337.

A warrant for the Peace or good behaviour must containe the speciall matter. *Dalt.* 336. *Lam.*87. but it is better under his seale. *Dal.*337.

A warrant for treason, murder or felony, or other capitall offence and such like, need not contain the special cause. *Cro.*148.*a.Dal.*337.

A warrant is better if it containe and bear the date at the place where it is made, the yeare and day when it was made. *Cro.*174.*a. Dal.ibid. Lam.*88.

Justice of Peace being out of the county, granteth his warrant to be served in the county; the officer must carry the party before some Justice of Peace within the county. *Dal. ibid. Lam.*91.

The county written in the margent of the warrant, albeit it be not expressed in the warrant, and *in Com.predicto*, shall have relation to the county set in the margent. *Cro.* 102.*b.* nu.29.

Justice of Peace may make his warrant to come

come before himſelfe: yet upon a warrant for the Peace the uſuall manner is otherwiſe. *Co.5.59. Dal.170. & 338.*

In ſome caſes a Juſtice of peace may grant his warrant to attach the offender to be at the next Seſſions of the Peace, to anſwer his ſaid offence. *Dal.338.*

"Juſtice of Peace may grant his warrant "againſt one that hath broken the Peace, "or committed miſdemeanors againſt the "Peace, to find ſureties for the Peace, or "good behaviour. *Da.34,162,165,338.*

Juſtices of Peace in divers caſes (as the caſe ſhall require) may grant their warrant for the parties neglect, or other default: and ſuch warrant may be either to attach him to be at the next Seſſions, there to anſwer, &c. or to bring the offender before the ſaid Juſtices, or any other Juſtice, &c. who finding cauſe to bind him, may bind him to the next Seſſions to anſwer the ſaid default. *Vide Dal.338 & 160.*

Where the ſtatute giveth authority to Juſtices of peace to cauſe another to doe a thing, they have power of congruity to grant their warrant to bring ſuch perſons before them, that ſo they may take order therein. *Quære Dal.338.*

A Juſtice of Peace maketh a warrant beyond his authority, it is not diſputable by Conſtable or other inferiour officer, but muſt be obeyed. *Lam.65. Dal.8,242,342.*

But if the Juſtice make a warrant to doe a thing out of his juriſdiction, or in a cauſe wherein he is not Judge; if the officer execute the

the warrant, he is punishable. *Dal.* 342. *Cro.* 147. *b. Dal.* 8. *Lam.* 91, 92.

Warrant for the Peace may be directed to any indifferent person by name, though he be not officer: yet it is better to a knowne officer. *Dal.* 340. *Cro.* 147. *a. Lam.* 88.

A sworne and knowne Officer need not to shew his warrant; but the servant of the Justice must shew it if it be required. *Dal. ibid. Lam.* 89. *Cro.* 148. *a.*

A warrant directed to the Constable, and to a stranger joyntly and severally, and executed solely by the stranger, is good. *Cro.* 147. *b. Dal.* 340.

Warrant directed to two joyntly to arrest another, may be executed by one of them. *Dal.* 340. *Lam.* 89.

« A Just. of P. may make his warrant to the « Sheriffe to attach one to bring him to the « Sessions to find surety of the Peace. *Cro.* « 136. *a.*

A warrant being directed by a Justice of Peace to the Sheriffe, he may by word command any sworne or knowne officer under him without precept in writing. *Dal.* 340. *Lam.* 89.

If a Justice of Peace his warrant be directed to the Sheriffs, Bailiffe, Constable, Justices servant, or other to arrest one, such person must serve it himselfe. *Lam.* 89. *Dal.* 340.

He to whom any warrant shall be directed, must do it with all secrecie and speed. *Dal. ib.*

A knowne officer must, if hee will not shew his warrant upon arrest, declare the con-

contents of his warrant. *Co.6.54. & 9.68. Dal.341.*

Upon arrest in the Kings name, the party arrested ought to obey, *Dal.ibid.* for if hee have not lawfull warrant, the party grieved may have his action of false imprisonment. *Dal.ibid. Co.9.68.*

An officer arresting a man doth afterwards procure a warrant; this is a wrongfull arrest. *Dal.341. Lam.90,91.*

The officer having a warrant for the peace, or good abearing, may break open the doors. *Dal.341. Cro.170.b.*

One is arrested, who upon promise to come againe is let goe, and commeth not againe; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit. *Dal.ibid. By.Faux impr.18.*

An officer having a lawfull warrant to arrest another, is resisted or assaulted by the party or any other person; the Officer may justifie the beating or hurting such person. *Dal.341. Lam.92.*

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, hee shall be indicted and fined; for it is the Kings processe. *Dal.342. Cro.149. Quere*, whether he shall not be bound to his good behaviour. *Dal.ibid.*

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to bind him to give evidence at the next gaole-delivery. *Dal.342.*

Justice

" Justice of peace is not to grant his war-
" rant against an offender of a penall statute
" to appeare at the Sessions unlesse it be ap-
" pointed by statute, but he ought first to be
" indicted. *Lam.* 187. *Dal.* 339. *Cro.* 197. *a.*
" nu. 21.

" Justice of Peace cannot make a warrant
" to arrest a felon except he be indicted. *Cro.*
" 147. *b.* But *Dalton* argueth that a Justice
" of Peace may make such a Warrant. *Vide*
" *Dal.* 339.

" One wrote to a Justice of Peace to send
" him a Warrant with a blank, to insert there-
" in one whom he would attach for suspition
" of felony. The Justice did so: And for
" that he sent his Warrant with a blanke, to
" put in a name which he knew not, nor the
" matter before the making of the warrant,
" he was fined in the Star-chamber. *Cro. Ju-*
" *risd.* 34. *a. Dal.* 337.

" All Warrants made in the Kings name,
" ought to be directed, To all Ministers
" as well within liberties as without. *Dalt.*
" 355.

" Warrants may be made either 1 in the
" name of the King, Or 2 in the name of the
" Justice; and either of them must be testifi-
" ed by the Justice from whom they issue. Or
" 3 without style by the subscription of the
" Justice. *Dal.* 335.

*Vide plus* Surety of the Peace.

## *To what Officers Warrants are to be directed by particular statutes.*

" To the Churchwardens, for negligent
" commers

"commers to Church, to levy 12. d. 3 *Jac. c.* 4.

"To the Conſtable or Churchwardens

"Againſt an Alehouſe-keeper, to levy 10. s.

"for ſuffering tipling. 1 *Jac. c.* 9.

"To levy 20. ſhil. for breaking the Aſſiſe.

"1 *Jac. c.* 9.

"For ſelling Ale without licenſe 20. ſhill.

"3 *Car. c.* 4.

"For tipling in an Alehouſe 3. ſhill. 4.

"pence. 1 *Jac. c.* 9.

"For abuſes on the Lords day. 1 *Car. c.* 1.

"For Carryers on the Lords day 20. ſhill.

"3 *Car. c.* 1.

"Shewing boots to ſell on Sunday 3. ſhill.

"4. d. 1 *Iac. c.* 22.

"To the Conſtables, Churchwardens, or

"Overſeers of the poore for ſwearing 12. d.

"21 *Jac. c.* 20.

"To the Conſtable or other inferiour

"officer for drunkenneſſe 5. ſhil. 4 *Jac. c.* 5.

"21 *Jac. c.* 7.

## Warreners, *vide* Forreſters.

## Watches.

Any Juſtice of Peace may cauſe night-watches to be kept for the arreſting of night-walkers and perſons ſuſpect, be they ſtrangers or others of evill fame. *Dal.* 144. 13 *E.* 1. *Stat. Winton c.* 4.

Watch is to be kept yearly from Aſcenſion day till Michaelmas in every town, from ſun ſetting to ſun riſing. *Dal.* 144. *Lam.* 440.

All ſtrangers or perſons ſuſpected, paſſing

by

by the watching men, may be examined by them; and if there be cauſe of ſuſpition, they may ſtay them, and if they will not obey, may levie hue and cry, and may juſtifie to beat them, and may ſtock them till morning; and if they find no cauſe of ſuſpition, deliver them; but if they find cauſe, may deliver them to the Conſtable, to carry them before a Juſtice of Peace. *Dal.* 144, 300.

Any Juſtice of Peace may cauſe all night-walkers, ſtrangers or other ſuſpected, eſpecially ſuch as ſleep in the day, and walk in the night, to be arreſted, and ſuch as in the night haunt any houſe ſuſpected of bawdery, or uſe ſuſpicious company, or commit other outrages or miſdemeanours, and cauſe them to finde ſureties for their good behaviour. *Dal.* 88. *Lam.* 118, 119.

No man is compelled to watch unleſſe he be an inhabitant in the towne. *Dal.* 145.

"Inhabitants are not compellable to watch "at the will of the Conſtable, but when his "turn commeth. *Dal. ibid.*

## Watermen.

Every Juſtice of Peace within the ſhire next adjoyning to the river of Thames within his juriſdiction, hath power upon complaint by the overſeers or rulers of the Watermen and Wherry-men, or two of them, or by the maſters of any ſuch ſervants, both to examine, heare and determine all offences againſt the ſtatute, and ſet at large him that ſhall be impriſoned by the overſeers and rulers,

rulers, if there bee just cause, and also by his discretion to punish those overseers and rulers, that shall unjustly punish any person. 2. & 3. *Ph.* & *Mar.* c. 16. *Lam.* 203. *Dal.* 145.

The offences against the statute are,

1 No single man shall bee a watermen. 1. *Jac.* c. 16.

2 One of the two rowing in one boate must be allowed by eight of the overseers by writing under seale.

3 They shall not hide themselves in time of pressing for the Kings service.

4 They shall not take for their fare above the price assessed, and set up in tables in Westminster Hall. *Dal.* saith, *quere* whether the Justices of Peace be to meddle with this.

## Wax.

One Justice of Peace may examine and search by his discretion such as doe sell any candles, or worke of wax above foure pence in the pound cleare gaine over the price of the Wax, and punish them by forfeiture of that which is to bee sold, and the value of that which is sold, and fine to the King. *Dal.* 145. *Lam.* 196, 469. 11. *H.* 8. c. 12.

## Weapons which be forcible, *Vide* Forcible Entry.

Weeres in rivers may bee ſurvayed by one Juſtice of Peace, which hee may cauſe to bee made of a reaſonable wideneſſe. *Lam.* 189.

Any making Weeres within five miles of the mouth of any haven or creeke, or by weeres deſtroying any frie or fiſh of the ſea, loſeth 10. pounds, one moity to the King, the other to the informer. 3. *Jac.* c. 12. *Dal.* 56. explaineth the particulars of that ſtat. of 3. *Jac.* c. 12.

## Weights and Meaſures.

Faults of the officers of Cities and Boroughs in not viewing & examining weights and meaſures twice a yeare, to be heard and determined by examination and enquiry of two Juſtices of Peace, one being of the Quorum, and by them to be fined and amerced; and ſo of faults of buyers and ſellers by other weights and meaſures than they ought to doe. 11. *H.* 7. c. 4. 12. *H.* 7. c. 5. *Lam.* 356. *Dal.* 146.

Two Juſtices of the Peace (one of the Quorum) may breake and burne ſuch meaſures as they finde defective, and fine the offenders by their diſcretion, and make proceſſe againſt them as in treſpaſſe. 12. *H.* 7. c. 5. *Lam.* 356. *Dal.* 146. 11. *H.* 7. c. 4.

Mayors of townes taking above a penny for ſealing a buſhell or other meaſure, or for weights above a penny for an hundred, an halfe penny for halfe an hundred, a farthing for

for a leſſe weight, loſe 40. s. 11. *H.* 7. *c.* 4. *Lam.* 437. *Dal.* 155, 7. *H.* 7. *c.* 3.

Buying and ſelling by unlawfull weights or meaſures, or in any City or market, with any Weights or meaſures that are not lawfully marked or ſigned, he loſeth for the firſt offence 6 ſhillings eight pence, for the ſecond offence 13 ſhillings 4 pence, and for the third 20. ſhillings and Pillory. 11. *H.* 7. *c.* 4. *Lam.* 460.

To buy corne by heaped meaſure, except on ſhipboard, or to uſe double meaſure, the one to buy, the other to ſell with, the firſt offence is ſixe ſhillings eight pence, the ſecond 13 ſhillings 4. pence, the third 20. ſhill. and Pillory. 11. *H.* 7. *c.* 4. *Lam.* 460. 15. *R.* 2. *c.* 4. *Stat. de Piſtoribus c.* 8.

Thoſe of the towne where the Kings Standard is appointed to remaine, not having common weights and meaſures ſigned, or not ſelling by the ſame to all that have required the ſame, are to be fined and amerced. 11. *H.* 7. *c.* 4. *Lam.* 460. *Dal.* 155. *vide plus* Veſſels.

## Witchcraft.

Invocation, Conjuration, conſultation, covenant, intertainment, imployment, feeding or rewarding any evill ſpirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charmes, or uſing any manner Witchcraft, whereby any perſon ſhall be killed, or any part of them waſted

or lamed, and also the accessaries, is felony without Clergy. 1. *Jac.* c. 12. *Lam.* 415 *Da.* 280

By Witchcraft or Charmes to finde out hidden treasures, to tell where lost goods shall be found, to provoke unlawfull love, to destroy or hurt any mans body, or to attempt any of them, the first offence is one yeeres imprisonment without baile, and to stand in the Pillory sixe houres every quarter of the same yeere, and confesse his offence; the second is felony without Clergy. 1. *Jac.* c. 12. *Lam.* 415.

Tryall of Noblemen upon the stat. of 2. *Jac.* c. 12. of Witchcraft, is to bee by his Peeres. *Lam.* 415.

Attainder upon the stat. 1. *Jac.* c. 12. of Witchcraft, neither losse of Dowre, nor corruption of Blood. 1. *Jac.* c. 12. *Lam. ibid.*

## Wines.

Wines brought in strange bottomes from *France* into any part of *England*, except the Ile of *Man*, and *Wales*, forfeit the Wines. 27. *El.* c. 12. *Lam.* 457.

Any licensed to retaile wine, selling above the prices limited by Proclamation, lose 3. s. 4. d. for every Gallon. 27. *El.* c. 11. *Lam.* 458. 5. *El.* c. 5.

Any under a Barons sonne, or under 100. marks a yeere, or 1000. marks in goods, keeping to spend in his house any vessels of *Gascoigne* wine, *French* or *Rochel* wine, above 10. gallons, loseth 10. pounds. 7. *E.* 6. c. 5. *La.* 458.

Woad.

Woad brought from *France* into any part of *England*, except the Isle of *Man* and *Wales* in a strange bottome, forfeiteth the Woad. 27. *El.c.*11. *Lam.*457, 458.

## Wood.

Upon complaint of the Lord, and disagreement of the Lord and his commoners, the fourth part of the Lords wood may be set forth by two Justices, appointed by the greatest part of the Justices at their Sessions, and not being of kindred or alliance, or fee to the Lord, 35. *H.*8.*c.*17. 13. *El.c.*25. *Lam.*359.

Just. in Q. Sessions may call before them the owner of the wood, and 12 of the Commoners to set out the fourth part. *Lam.*609.

Ingrosser or Regrater of Barke, forfeiteth the Bark. 1. *Jac.*22. *Lam.*452.

Any selling of Oakes meet to be barked, before April, or after June, except for necessary building, as repairing of houses, ships, mills, lose the Oake, or double value. 1. *Jac.c.*22.

Purveyors taking Timber for the repayre of the Kings ships or houses, the owner may retaine all the Barks lop and top, and the Purveyor taking them, loseth for every tree 40 shillings to the party grieved. 1. *Jac.* 22. *Lam.*438.

## Wooll and Wooll-seller.

Buyer of Wooll of any other than the owner of the sheepe or tithe, lose the value. 14. *R.*2.*c.*4. *Lam.*452.

Buyer of Woollen-yarne, and not making it into cloth, loseth the value therof. 8. *H.* 6. *Lam.* 452

Any sorter, carder, kember, spinster or weaver, receiving wooll and yarne of any clothier or maker of stuffe, and embezelling, selling, or detaining the same, and the Receiver or buyer knowing thereof, upon conviction, by confession or oath of one witnesse before two Justices of Peace, is to make such recompence to the party, as the Just. shall appoint: and the offender being unable and refusing to doe it, is to bee whipt or stocked. 7. *Jac.* 7. c. 7.

## Women.

Women arraigned for felony, may only for one time have the benefit of their belly. *Lam.* 563.

Just. of Peace cannot award a *Veuire facias tot matronas*, to know whether a Woman felon be with child. *Lam.* 551.

Taking away a woman against her will that hath land, &c. or is heire apparent, not claiming her as ward, and after marry or defloure her, is felony without Clergy. So of the procurers, abetters and receivers knowing thereof. 3. *H.* 7. c. 2. *Lam.* 421.

A woman being delivered of a Bastard-childe, and borne alive, that endeavoureth privately by drowning, secret burning, or other way by her selfe, or procuring of other,

to

to conceale the death thereof, as that it may not come to light whether it were borne alive or dead, ſhall ſuffer as in murder, except ſhe can prove by one witneſſe that the childe was borne dead. 21. *Jac.* 27.

Women convicted of felonious taking above 12. d. and under 10. s. being not Burglary or Robbery in or neare any high way, nor taking of money, goods, or chattels from the perſon of any, privily or as acceſſary to any ſuch offence, wherein a man may have his Clergy, ſhall for the firſt offence be burned in the hand and further impriſoned, whipped, and ſtocked, or ſent to the houſe of Correction (not above a yeere) as the Juſtices before whom the conviction is, ſhall thinke meet. 21. *Jac.* 6. *Dal.* 272. 273.

Wife and her husband are bound to appeare at the Seſſions, and in the meane time to keepe the peace. The husband only appearing, the Recognizance is not forfeited. *Dal.* 179. *Quære tamen. Cro.* 144. b.

FINIS.

UMI